

LEGISLATIVE ASSEMBLY

Wednesday 9 September 2009

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

The Speaker read the Prayer and acknowledgement of country.

NSW LOTTERIES (AUTHORISED TRANSACTION) BILL 2009

Message received from the Legislative Council returning the bill with amendments.

Consideration of Legislative Council's amendments 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.

DISTINGUISHED VISITORS

The SPEAKER: I acknowledge the presence in the gallery of members of the Social Development Committee of the Queensland Parliament. Welcome to the New South Wales Parliament this morning.

EDUCATION FURTHER AMENDMENT (PUBLICATION OF SCHOOL RESULTS) BILL 2009

Agreement in Principle

Debate resumed from 8 September 2009.

Mr THOMAS GEORGE (Lismore) [10.08 a.m.]: I wish to take part in the debate on the Education Further Amendment (Publication of School Results) Bill 2009. The object of the bill is to amend the Education Act 1990 to repeal certain provisions that create an offence in relation to the publication of school results. The provisions were included in the Education Amendment (Publication of School Results) Act 2009 by amendment in Committee when the bill for that Act was before the Legislative Council. The provisions make it a criminal offence, with certain exceptions, to publish, in a newspaper or other publicly available document, a ranking or other comparison of particular schools according to school results or the identity of the school with a percentile result of less than 90 per cent in relation to school results.

I have grave concerns about the Education Further Amendment (Publication of School Results) Bill 2009. I believe that we must put our children first. Children throughout New South Wales are receiving a high quality of broad education that is stimulating and relevant; it is an education that prepares them for success in the real world. As a result of the introduction of league tables—which encourages a bland teaching environment where children learn how to pass tests rather than how to achieve their true potential in all fields of study—that high quality of education would change. I received an email from the principal of one of the better primary schools in my electorate:

The release of this information without any contextual information will be damaging to many of our schools and their communities. These schools offer programs that meet the needs of their students. In many instances they are not always primarily academic.

I have taught in schools such as this and a comparison with affluent ... [city] ... schools (for example) would be devastating to the collective psyche of these communities.

At [Wyrallah Road Public School] ... our results will present favourably but there are over 1800 public primary schools all with unique characteristics and needs.

The only value that will be gained from this exercise is the provision of sensational headlines for the press.

Public schools are doing a great job in trying economic circumstances. They don't need ill-informed raw data splashed over the Media inciting a public looking for scapegoats in these troubled times. My regards to you with your deliberations on this matter.

That sums up the situation in country and regional New South Wales. I have four towns in my electorate and each has only one high school. If the school tables are published, I know where the ranking of those schools will be. As the principal stated in his email, regional schools provide a good education, but their focus is not always primarily academic. Parents in regional communities do not have the option of sending their children to another school if they are not happy with the school their children are attending. That opportunity simply is not available.

For argument's sake, let me take the example of a school in a low socioeconomic area that happens to be at the bottom of the list. Regional towns have hospitals, doctors, police and other community services. How will they be able to attract people to move into the community if there is concern about whether the high school is listed in tables published on the front page of newspapers indicating where the school stands within the education community? I have received plenty of emails and criticism from other members of Parliament that suggest the Coalition is listening to teachers' views on league tables. Many members of the Coalition have a strong association with teachers: I declare quite proudly that I am married to Deborah, who is a teacher. I must listen to teachers who can provide unique insight into matters addressed by the bill and what teachers are up against.

It is wrong to criticise the Coalition for listening to teachers. Teachers are the voice of our local schools and they inform the community of their everyday experiences at schools. When a principal of the calibre of Ralph Taylor, who runs the very successful Wyrallah Road Public School which is up with the best of them, expresses grave concerns for the fate of other schools as a result of the bill, I will certainly listen. I thank him and all the other teachers from various schools throughout my electorate who have contacted me. I received representations from a federation councillor, Gae Masters, who has expressed grave concerns. Gae teaches at the Richmond River High School. She was brought up in country New South Wales and understands exactly the impact that this legislation will have on rural and country areas.

I have received an email from David Hanley who is a teacher at the Richmond River High School in Lismore. That school is not currently accepting new enrolments in year 7 because it has the maximum number of students attending the school. Richmond River High School is another very successful school in my electorate. David has expressed his concerns to me and stated, "I ask you to consider the implication of the Government's action ...". He asked me to urge the Government to rethink this legislation. He urged me not to support the bill before the House. I also received an email from Peter Campbell, who is the principal of the Lismore High School, which is another great school in my electorate. It is ironical that principals and teachers are prepared to put their name to an email and publicly support opposition to an education bill.

The Coalition has consistently opposed the Government's proposal to allow publication of school results. The Coalition's decision, which was not taken lightly, is based on the Coalition's resolve to put our children and country and regional schools first. I have no hesitation in supporting the Coalition's opposition to the Government's bill. I record my disappointment that the Government has introduced the bill.

Mr PETER DRAPER (Tamworth) [10.16 a.m.]: My contribution to debate on the Education Further Amendments (Publication of School Results) Bill 2009 will be brief. The bill amends the Education Act 1990 and repeals certain provisions creating the offence of publication of school results. The provisions that the Government proposes to repeal were in the Education Amendment (Publication of School Results) Act 2009, which was passed recently by this Parliament. At the outset I state that the proposal to publish league tables of school results is counterproductive. I have received a great deal of correspondence on this issue from organisations such as the Isolated Children's Parents Association, Catholic schools, the New South Wales Teachers Federation, the Primary Principals Association, the New South Wales Federation of Parents and Citizens Associations, the Independent Education Union and numerous individual teachers and principals. Individuals and peak organisations are unanimous in their opposition to publication of league results, which begs the question: Is the Government running out of people to offend?

Mr Steve Cansdell: Well said.

Mr PETER DRAPER: I simply cannot support this legislation. A single document that ranks schools according to academic performance will be detrimental, particularly to country schools. I have listened to

Government members who clearly are out of touch with the education sector. In the last six years since I have had the honour of representing the Tamworth electorate I have visited every school in my electorate on a number of occasions. Of all the things I do, visiting schools is one of my favourite things. As recently as a couple of weeks ago I spent a day visiting three very small public schools with student enrolments ranging from 12 to 40.

The schools I visited are in small and isolated communities, yet the attention received by students from the teachers, the support staff and the parent body is absolutely outstanding. At one school all the kids were next door at the hall practising their version of *Australian Idol*. Numerous parents were in attendance as well as a music teacher who had travelled a significant distance to support the kids. At the next school one student's grandfather was teaching kids how to build bird boxes so that galahs frequenting the playground could have somewhere to nest. Our children will not get that support, education and experience in the big city schools, and I guarantee those sorts of activities will not appear on a league table. The schools in my district deliver the most wonderful education opportunities for our children that any parent could expect. I am delighted that my children have gone to Nemingha Public School and that they have done particularly well—mostly because they have inherited their mother's brains and not mine—and they are enjoying school life immensely.

The Hillvue Public School in Tamworth is one of the most outstanding schools in our area—it is unique in my opinion. It has a large number of students and the highest proportion of Aboriginal children of any school in the State. It delivers outstanding programs and initiatives to continually improve the opportunities for every one of those students—a student does not have to be an academic child to get a good education. The community support and dedication of the teachers and support staff make the Hillvue school an example of exactly what public education can be so proud of. Despite the innovation and dedication clearly on display at that school, it will be compared and ranked in comparison with schools in Sydney and other major centres. A school such as Hillvue cannot be ranked in that way as there are no other schools with its demographics.

Many members of Parliament seem to be focused on the legality or otherwise of the publication of school rankings in newspapers—that has dominated the debate—and they have also referred to what is happening in other areas. The issue is really about giving all schools a fair go. If members spoke about this issue with their local teachers they would be firmly opposed to the legislation. I have received many representations on teacher transfers and giving TAFE college teachers a fair go, but no more representations than I have received on this issue. As the member for Dubbo rightly pointed out, we should not be talking about league rankings; we should be talking about truancy rates and bullying in schools, and about the support available to give children with disabilities the best options and opportunities in the public education system. I have personally spoken to many teachers. Similarly to the member for Lismore and the Speaker, I am married to a teacher.

The SPEAKER: And what teachers they are!

Mr PETER DRAPER: Fantastic teachers. In my six years of representation in this House I have not received a single representation from a school, a teacher or a parent asking for school rankings. Plenty of information is available. Assessing a school against the outcomes delivered by other schools in the local area is already easy to do so without the introduction of a mandatory official ranking system. This is an ideological position that will not deliver a fair outcome for country or disadvantaged schools. I strongly oppose the bill.

Mr GREG APLIN (Albury) [10.22 a.m.]: I do not support the Education Further Amendment (Publication of School Results) Bill 2009. I observe at the outset that this bill has occupied far too much time of the House with something that is best summed up by a quote I saw on a calendar just a few days ago: The wind of anger extinguishes the lamp of intelligence. That clearly is the case with the Government's position on this bill. Often in this State it comes down to a question of money, and we have seen far too many examples of that in far too many debates in this House. But both sides of the House have acknowledged that money will flow from the Federal Government whether or not the bill proceeds. We must look for other reasons for the bill. Is it the Government's predilection for government through spin or government through the media? That would certainly explain the amount of hot air being expended by the Government!

A couple of weeks ago I met in my office with a delegation of people involved in the education of our children. The group typically represented the type of people with the means of delivering and assessing education and demanding from the Government changes where changes are needed. I speak of the President of the Albury Teachers Association, the President of the Albury Secondary Principals Council, the President of the Albury Primary Principals Council, the President of the Albury District Parents and Citizens Association, and

the principals of the various Catholic schools in Albury. They all spoke with a united voice in their opposition to the publication of rankings or league tables. They said that the publication of league tables for schools was dangerously simplistic and would do more harm than good.

Jan Hastings, the President of the Albury Teachers Association, told me that tests represent a very small part of what schools do and serve no good education purpose. She said that the tables do not say a lot about the students, where they come from and how far they have come, and that not every school starts from an equal platform. She further said that for some schools it is an achievement just being able to get students to attend the school but these schools, and thus their students, will be stigmatised as losers, which will have all sorts of negative consequences, even for job prospects. Jan said the tables are based on two tests: numeracy and literacy, and that these tables would force schools to teach to the test rather than in the best interests of the student body. Those comments are of concern. We had a long discussion about the publication of tables and, more importantly, the access by teachers and the department to information that was derived from those tests.

I questioned the principals on their attitudes to those tests. We looked for the benefit, which is what we should be doing in this House when a bill such as this comes before us. The media does not benefit from this. It is not about the publication. Not even the Government benefits from this. The students and the institutions in which they study should be the ones that benefit. That should be the sole reason for the debate in this Chamber: to improve conditions and outcomes. I stress that present at the meeting were representatives of the principals of the schools of this State, not only of the teachers. At the meeting we focused on two topics: first, for what purpose will the results be produced in a league table format and, second, what educational benefit will be achieved? I put those questions to the Government as a matter of concern to us all. Anne Nolan, President of the Albury Primary Principals Council, wrote to me, and I quote from her letter:

All information relevant to the NAPLAN results is currently available—our concern with the publication of these results through the media is that there are no controls and no protocols for usage. There is also no explanation that this is one test at one point in time.

The league tables report a very narrow corridor of assessment and do not take into account

- happiness and safety of students
- school targets
- school culture and partnerships
- behaviour and welfare management protocols
- the wider community and its expectations
- the growth of students—where they've come from and what they've achieved
- changing student populations.

Anne continued:

Publishing such a narrow view has the capacity to demoralise not just the failing student, but the school and its community if labelled as a failing school. A school with low NAPLAN data may in fact be a highly successful school in other areas such as retention of students, or its success in improving attendance rates, or the work which has been done in assimilating students from different cultural backgrounds and developing their skills, perhaps in increasing community involvement and support for the school.

Publishing a table which encourages competitiveness and provides the ability to misrepresent school achievement has the possibility of narrowing the school curriculum if schools start teaching to achieve in the Numeracy and Literacy strands for the benefit of the published table.

We have no objection to the NAPLAN assessment as we gain extremely valuable data from these which, along with other data available, is utilised to determine and underpin school planning, targets and resourcing needs. However, it is but one piece of information schools value to support students learning.

That is exactly the point, and that was the conclusion that was reached at the end of the meeting: it is but one component of all the information required to support schools and to achieve outcomes for students. It does not underpin the whole learning environment; it is just one component. Clearly, a benefit should be derived from the use of the information. In fact it is incumbent upon the department to use that information to improve situations where it distinguishes the need. That information should be used throughout the State by the Government to improve the conditions of those schools and better resource the schools, and to counsel teachers where problems are identified.

That is obviously the benefit that should be derived. For the Federal Government to require that information suggests that we are embarking upon a national curriculum, and perhaps it intends to do the same

across the country, as the role undertaken by the New South Wales Department of Education and Training. Following the meeting I received from the President of the Albury and District Council Parents and Citizens Association, Margaret Gavrilovic, a letter that stated:

... to advise the views of the Albury & District Council P & C Association, which is also along the same lines as the Federation of P & C's.

The P & C does not support the creation and publishing results of simplistic League Tables. The results of these rankings can be misleading as the parents and community are not given a comprehensive outline of the school community and the many variables that make a school unique. The stigma that can be attached to a school at the bottom of the rankings can have a long-lasting effect on the school and community.

The P & C is not against accountability for schools, but all the information needs to be available on an equal footing; there are many other test results that are available to parents, for example, on the schools website and annual reports.

That sums it up. No-one is talking about accountability for schools, which is absolutely critical, but the information must be provided on an equal footing. Lest one think that it is only the principals representing their schools who have been coming to see me, I have also received various petitions from schools. I take as a random sample a petition from Billabong High School, situated at Culcairn, that is signed by some 40 teachers, principals and people associated with the school. The petition, which is representative of so many from across the State, states:

We, the undersigned, hereby declare our opposition to the creation and publication of school league tables. As a principle, we support the collection and reporting of accurate and appropriate data relating to student performance. School league tables, however, do not do this. The damage their publication causes to curriculum provision, schools, students and their communities is well-documented in international research and evidence.

While all State, Territory and Federal education ministers have declared that "governments themselves will not devise simplistic league tables or rankings" (The Melbourne Declaration on Educational Goals for Young Australians, 5 December, 2008) it is clear that without government intervention this is what media outlets will use government-provided data to do. In fact, both the Hobart *Mercury* (May 6, 2009) and Brisbane's *Courier Mail* (May 23, 2009) have already done so, producing tables which do little more than rank schools by relative socio-economic advantage and disadvantage.

As a consequence, we urge Members of Parliament to support measures, including legislative action, to prevent the creation and publication of school league tables.

The New South Wales Public Education Alliance produced a document that it distributed at various schools throughout the State. In that document the alliance declared that the "education community is united", stating:

Principals, teachers, parents and experts in both the public and private school sectors agree—league tables pose a very real threat to the quality of education in NSW schools.

Recently, twenty-one peak professional bodies within the Australian education community urged Australian governments to reject the introduction of league tables. This group included public and independent school principals' associations, church school organisations, parents' organisations, education unions and specialist teacher and curriculum associations.

The NSW and Federal Governments must listen to those who know—teachers, principals, parents and the community.

Clearly, that is the situation. A united group of people delivering education are speaking with one voice, but clearly the Government has chosen not to listen to them. Another article in the same publication, "Getting the full story on school performance", states:

Principals, teachers and parents are strongly committed to the use of information to achieve the best results in teaching and learning. It is important to give students feedback on how they are learning and how they can improve their results.

This is so obvious that it hardly needs to be stated, but clearly the message has not got through to the Government. The article further states:

It is also important that information is used to ensure that schools are well resourced to provide quality education.

That is incumbent on the Government, and that is why there is a Department of Education and Training. The article continues:

Some politicians and media commentators argue that league tables provide transparency of data so that parents can choose "the best" school for their children. In fact, reliable school performance information is already available.

NSW public schools have never provided more information on individual student and school performance than they do now. Parents can access comparative information through student reports, annual school reports, school websites, and through meetings with the school's teachers and/or principal.

Parents of students in Years 3, 5, 7 and 9 each year receive a detailed report on their child's performance in national tests. This includes comparisons with the national average.

As a parent who has received these results in the past, I know that that is true. Why does this information fail to get through to the Government? Clearly, there is an enormous amount of information. Those of us who have sat on school councils and parents and citizens associations know the amount of information that is now available and the comparisons that are available through all those publications and school reports. Interestingly, in the same publication another article states:

Governments know that league tables will harm students, schools and communities. That is why state and federal education ministers agreed to delete the following 'ethical principle' from the *Principles and Protocols for Reporting on Schooling in Australia, June 2009*:

The article that was removed stated:

The avoidance of harm to members of the community: this could occur where the privacy of individuals would be compromised or where the reputation of an institution or group of people would be damaged through the publication of misleading information or stereotyping.

It is intriguing that that particular principle was removed. Finally, schools are not football teams. A child's achievement at school cannot be reduced to the equivalent of scoring a try or a goal. We know that in rankings someone holds the bottom line: someone is declared as the wooden spooner of the competition. Is that what we want to achieve? Is that what we are setting out to do with this legislation? How proud we can be if that is the result, because that is exactly what will be achieved from any publication of league tables. There must be a ranking; there is no other way to produce league tables. Consider this: One team could go through the year and lose every match by a single point. For a team in the National Rugby League or the Australian Football League [AFL] to lose by a single point consistently throughout the year is hardly something to be totally embarrassed about. That team has simply been unlucky all year.

Yet we are saying that a school that produces poor results consistently throughout the year will be on the bottom of the list and held up to ridicule. That will be exactly the result if this bill goes through. As for league tables not being published in the media, I make one point. In one case relating to a place near my electorate—it is in Victoria—the media published the results of a comparison of a class in one small school with other schools across the State to see how many students had gone on to university. The small number at that school produced very few university students because they had gone on to work, taken a gap year or entered apprenticeships. Yet the school was held up to ridicule: it affected the school and the community. That is the result of league rankings.

Mr KEVIN HUMPHRIES (Barwon) [10.37 a.m.]: Before I comment specifically on league tables I reiterate and reinforce what the member for Albury said about governments and their mandate and responsibility to provide resources to ensure that quality education is provided not only across the State but across the country. Two weeks ago \$1.5 billion of the Rudd Government's infrastructure funding for schools was cut. Some of the most disadvantaged schools in this State—most of them are in my electorate, in places such as Mungindi, Boggabilla, Collarenebri, Gulargambone, Trangie and Baradine—were advised that their funding for either science laboratories or language unit centres had been suspended. Some city cousin schools, including non-government schools, have had two bites of the cherry in terms of funding for school hall upgrades or science laboratories. The situation is totally inequitable. I have asked the Minister for Education and Training what part the New South Wales Government played in that decision-making process. Our Federal counterparts are calling for an inquiry or report into the way in which that money is being spent.

Mr Gerard Martin: Point of order: I ask that the member for Barwon be drawn back to the question before the House, that is, the school league tables.

ACTING-SPEAKER (Mr Thomas George): Order! What is the member's point of order?

Mr Gerard Martin: The member is not addressing the matter before the Chair.

ACTING-SPEAKER (Mr Thomas George): Order! Debate on the bill has been wide ranging. I am sure the member for Barwon will refer to the bill.

Mr KEVIN HUMPHRIES: School league tables are all about reporting on the quality of education that is provided in our schools, or the lack of thereof. When successive Federal and State governments

compromise that quality it potentially impacts on the reporting process. Yesterday the member for Bathurst said that if New South Wales did not enter into an agreement to publish this data we would be the laughing stock of the country. There is no need to enter into an agreement because New South Wales is already the laughing stock of all the States. We do not have to reinforce that image. New South Wales had an opportunity at the Federal level to help improve the quality of education, but that outcome has been compromised for many of our most disadvantaged schools. Last year the Federal Minister for Education, Julia Gillard, said that the results of the first national literacy and numeracy tests, which commenced around May 2008, would provide information to parents and schools but that the information would not be made available more widely. The Rudd Government, in an education policy document under the heading "Greater accountability", said:

A Rudd Labor government will publish the annual results of individual primary and secondary schools on national reading, writing and numeracy assessments for students in grades 3, 5, 7 and 9. Publication of school performance information will form an integral part of federal Labor's plan to improve literacy and numeracy ...

However, there was no agreement that these results would be published. At the time Queensland, New South Wales and South Australia were opposed to so-called league tables. Queensland and New South Wales had agreed to provide school-by-school results to the Federal Government on the condition that the results were not used in the compilation of league tables. The then New South Wales Minister for Education and Training, John Della Bosca, said that he opposed the results of literacy and numeracy testing to determine disadvantaged schools funding. He said that league tables were a silly idea and that using literacy and numeracy results to determine disadvantaged schools was too simplistic. What has changed? Do schools need to publish information? Do governments have access to information in order to assess whether schools are entitled to or in need of additional assistance? They already have that information.

I was a school principal for 15 years. That information was provided readily to State and Federal governments, and indeed decision making was based on that information in relation to disadvantaged schools, country areas and specific indigenous programs. That information has been readily available to all concerned in the education industry. The then Queensland Minister for Education and Training, Rod Welford, reinforced opposition to the publication of league tables by saying that any representation would be "both misleading and deceptive". The question is: Is it right to rank schools in terms of performance? To date, the arguments have been relatively naïve and immature. We have not had a proper debate in this State about the whole issue of school league tables and their publication. On 13 June this year, as reported in the *Herald Sun*, Ms Gillard said:

"The Rudd Government is not interested in simplistic league tables, which rank schools according to raw test scores. For instance, schools will not be ranked according to NAPLAN results."

The article also reported that she said:

"I don't support league tables but I do support the full information being available." So much for logic.

All the information is available, and Ms Gillard does not believe it should be published. Yet we are arguing over simplistic league tables. The debate is going around and around. It is symptomatic of this Government, which is managing in crisis with no definable framework. At the time the Federal Government and its State counterparts were constantly called upon not only by teachers and principals but also by the wider community and academics to stop the creation and publication of league tables. The comparison of results of like schools, as has been proposed by this Government, has been criticised also. The argument is that, if the results are to be published anyway, banding schools together will give only a restricted or narrow sample. It will not necessarily give parents any greater information. Parents tend to vote with their feet. There are terrific ways, which I will refer to shortly, to assess the role and effectiveness of schools in our community. At a recent rally held at Rosehill racecourse the proposed school league tables were described as a disgrace by the Teachers Federation and all those who attended. Interestingly, the Minister, who had been well informed that the rally was being held, failed to attend.

I want to refer briefly to the British experience. When I was in Britain some years ago one of the issues I looked at was school league tables. What has happened in Britain—and it will happen here and it is the reason why school league tables are of significant concern—is that league tables have been politicised. We do not want to follow that path in this country and take our education system down a political line. The achievements that are published in the league tables in Britain mask the school divide. The Labor Government of New South Wales and the Minister for Education and Training, by pushing this naïve, immature progression of league tables, will divide our communities. For example, in England the published results have shown markedly over

time a migration to non-government and independent schools. As a result public education entities providing school and educational opportunities in many disadvantaged areas are suffering. The league tables stigmatise not only those schools that are underperforming according to national benchmarks but also their communities.

A number of teachers who have recently returned from London, where they were teaching on a daily basis, told me that they will not go to schools that are continually at the bottom of the published league tables. They do not want to go to those schools because they perceive them as having too many problems—behavioural, academic and so on. These schools are getting a double whammy and disadvantaged communities will never be able to rise above that. Ms Gillard brought back the same experience from the United States. I suspect that the New South Wales Labor Government has not looked at the current trends in reporting. Right across Britain they show the closure of not independent schools or private schools but state schools. And that is what we will see in New South Wales.

Once simplistic league tables are published communities will be stigmatised and schools will close. That is a debate we have not had because the Government has not done its homework. In stage one the Labor Government will preside over the closure of State-run schools. Such trends have been revealed overseas, but this Government has not done its homework. It should go to the community and explain which schools will be closed. The Government should ask the Minister for Education and Training and its senior bureaucrats what information they have available that is supportive of our disadvantaged schools. We can identify such schools in our communities but publishing their results will not create better outcomes for any schools. In fact, it will have the reverse effect—and if the Government had done its work it would know that is true. The Government will be cutting off its nose to spite its face.

When I was a principal I encouraged parents to look at the following principles in order to ascertain what was a good school and which school suited their needs—not every school suits every child's need. Parents should attend open days and talk with the principal and staff. They should look at whether the school promotes extracurricular activities or sports events and consider ways that the school could positively enhance their child's development. Is the working environment of the classroom cheerful and are students readily engaged? Does their work reflect the appropriate standard for the grade level and the children? Does the school have a fully equipped library? What role does technology play in the school? Does the school have computers and, if so, what is the ratio of computers to students? Are there music programs? Are the school buildings and grounds well maintained? Are there change rooms? Is everything in good working order? Does the school have safe playgrounds? Is there a prospectus or a mission statement that reflects the everyday activities and operation of the school?

Does the school have rules, regulations or uniforms? How strict is the school? What is the appearance of students and what are their behavioural standards? Are parents listened to and do they have an opportunity to participate? Has the school been ranked and, if so, from where can one get information about its performance? Is there a school website? Is an annual report produced? Those factors weave in with the school traditions and mottos that parents can already access. They are the debates and discussions that we should be having in this Chamber to make sure that parents know that schools are doing a good job. Simplistic league tables will not show that, and the Opposition opposes the legislation.

Mr STEVE CANSDELL (Clarence) [10.52 a.m.]: I speak in opposition to the Education Further Amendment (Publication of School Results) Bill 2009. The Liberal-Nationals are opposed to crude and simplistic league tables that rank every school from top to bottom, regardless of their differences. One cannot rank fairly and compare, for example, schools in Wilcannia with those in Woollahra, Brewarrina, Baulkham Hills, Mount Druitt or with The Scots College. It is stupid for the Government to think it can do so. Schools in western New South Wales, and some in my electorate, have a very low socioeconomic base. Their students come from dysfunctional families and indigenous communities on missions that have a culture that does not promote school attendance.

Teachers at those schools work very hard and are passionate about doing nothing more than getting the kids to school and teaching them the three Rs: reading, writing and 'rithmetic. They try to get children to stay at school, at least to year 10, so that they leave with a simple education and can read and write. The real achievement is that those students leave school knowing they can work with other kids and are knowledgeable about their community—which is like getting a triple-A rating at Scots College. Simplistic league tables disadvantage such schools by placing them at the bottom of the rankings. As a consequence, a teacher with a passion for trying to improve the lot of disadvantaged children at Wilcannia or Brewarrina will also receive a low ranking. She will not get credit for her work, which is a great failing of the league tables concept.

The Liberal-Nationals strongly support parents getting more information about their child's performance, their school's performance and how that school compares with similar schools. That type of meaningful information is already available. Crude and simplistic league tables stigmatise great kids and teachers, who are given a low ranking by bureaucrats. Schools, teachers and kids should not be tagged for life, which is what league table rankings will do. Labor is simply playing politics with this matter, and therefore with the lives of kids. The legislation will not interfere with Federal Government funding. On 8 September my colleague the member for Murrumbidgee said:

When the Education Amendment Bill passed through the Parliament in June this year the Minister for Education and Training said in the Parliament that she was opposed to simplistic league tables. The Minister also said that safeguards were put in place as part of the national agreement to prevent the publication of simplistic league tables. The Minister said that is why the amendment moved by the Greens, which was supported by the Opposition, was not necessary.

We have seen no evidence of any protection measures. All we have heard from the State and Federal Labor Party [is]...

a pack of garbage that does not support anything. The member continued:

Last week we heard the Minister for Education and Training mislead the House by suggesting that the amendment would jeopardise Federal Government funding to New South Wales for education. That has never been the case. In fact, when the amendment was moved in June the Government clearly indicated in speeches in both Houses ... that it would not jeopardise the Federal Government funding or the provision of data about schools in New South Wales being given to the Commonwealth. That was clearly stated in *Hansard*, but last week the Minister insisted on grandstanding and said that funding would be jeopardised if the amendment was not removed.

It is hypocritical for the Government to say one minute that the funding will be jeopardised and the next that it will not. It all depends on what the Government wants to say on the day. The member for Murrumbidgee went on:

The pure intention of the amendment, supported by the Coalition, was always about protecting schools. It was not based on something I had invented, or some idea of the Coalition, but based on what teachers have said is in the best interests ...

The five peak education bodies across the State, including the New South Wales Teachers Federation, principals, the New South Wales Federation of Parents and Citizens Associations, the Catholic schools and independent schools, oppose leagues tables and their publication. It is not just about teachers protecting themselves; parents are realising that their children will be stigmatised. For example, children from Somali families who attend school may have limited English language skills. Their teacher's role is merely to get those children to assimilate, learn English and get a basic education so that when they leave school they can integrate and mix well in the community and hopefully have a good life.

But if those schools are listed on league tables—whether they are schools in Mt Druitt, Marrickville, Wilcannia, Brewarrina or any disadvantaged area—and are compared with Scots College or schools at Woollahra or Baulkham Hills then of course they are going to be down the bottom of the list. But that does not mean the teachers have not achieved, it does not mean the students have not succeeded and it does not mean the school has not reached its goal and its object of being there—to give these kids a chance in life.

I believe that simplistic league tables give a false indication of a school's performance. They give teachers simple criteria to teach the kids: just concentrate on the league tables and forget other social policies; just concentrate on exam results, achieve there, and that will give the school a high ranking. That does not cover myriad education issues that most schools now try to cover now. We passed legislation recently that made it compulsory for children to stay at school until the age of 17. Many kids are behind in their schoolwork and want to leave school at 15 or 16 to try to get a job or move on. If we are going to make kids stay at school until they are 17, especially the kids who do not want to study French literature or history or other subjects that have no value for them whatsoever, then at least put programs into schools.

Schools should have hands-on programs and pre-trade programs to give kids some future. Such programs would give kids a reason to want to go to school. They would be interested in going to school and would not be disruptive for the whole class and make it difficult for the teachers and the other students. Hands-on programs, such as woodwork, metalwork and other trade areas where there are jobs and employment opportunities available, would give kids pre-job training so they want to stay at school and are job ready when they leave at 17. I am opposed to league tables that stigmatise kids, teachers or schools, and I hope members of this House see some sense on this issue.

Ms KATRINA HODGKINSON (Burrinjuck) [11.01 a.m.]: I speak on the Education Further Amendment (Publication of School Results) Bill 2009 and state my opposition to this amendment bill. Many

speakers have made contributions to this debate so far and I put on the record that I oppose the publication of simplistic league tables as a measure of a school's performance. I cannot but be extremely disappointed with the performance of the current Minister for Education and Training. I very rarely say this sort of thing, but time and time again numerous requests I make to her for things that would benefit schools in my electorate are knocked back.

She clearly is not a Minister who cares about schools in rural and regional New South Wales. I do not know if she has even been to a school in the electorate of Burrinjuck but I take this opportunity to invite her to come to see schools in my electorate. I would like her to come to Murringo, Young and Cowra to see some of the smaller schools that cope with everyday challenges. We should not be discussing this matter today. Nobody I know wants the publication of simplistic league tables as a reflection of how their school is performing. I have received a petition from Cowra High School headed, "School League Tables Statement of Opposition". The petition states:

We, the undersigned, hereby declare our opposition to the creation and publication of school league tables. As a principle, we support the collection and reporting of accurate and appropriate data relating to student performance. School league tables, however, do not do this. The damage their publication causes to curriculum provision, schools, students and their communities is well-documented in international research and evidence.

While all State, Territory and Federal education ministers have declared that "governments themselves will not devise simplistic league tables or rankings" (The Melbourne Declaration on Educational Goals for Young Australians, 5 December, 2008) it is clear that without government intervention this is what media outlets would use government-provided data to do. In fact, both the Hobart *Mercury* (May 6, 2009) and Brisbane's *Courier Mail* (May 23, 2009) have already done so, producing tables which do little more than rank schools by relative socio-economic advantage and disadvantage.

As a consequence, we urge Members of Parliament to support measures, including legislative action, to prevent the creation and publication of school league tables.

Quite a number of parents and citizens of the Cowra community have signed the petition. I also put on the record a letter I have received. It is one of a number of letters I have received and I think it sums up the issue quite nicely. The letter is from Emma Curry from Illabo, a beautiful part of my electorate in the Riverina. She states:

The NSW Parliament has introduced a bill into the lower house that will enable the publication of league tables. The publication of such tables means that education will now be used as a 'competitive tool of the market', rather than the provision of learning experiences and opportunities for all students to learn, grow and develop.

The publication of such tables will increase the pressure placed on students, by not only themselves, but also by their parents and teachers. Students will become more anxious, stressed and ultimately fearful of their results. These feelings will be apparent in all ages of students, from those sitting the NAPLAN to those sitting their School Certificate and HSC. The results students score in these tests are private, they help to form a basis for improvement in achievement and also as an opportunity for further study, however the question that I ask is why does anyone else need know these results? What purpose does it serve? In any case, it will increase bullying in schools, parents will place a greater amount of pressure on teachers to ensure that their children achieve and there will also be a greater effort on parents' parts as to which schools their children attend.

When you live in a country town there is often not a lot of choice in what school your child can attend. Are parents going to be able to shop around if they are living 30 minutes or 60 minutes from the nearest school? Of course they are not. It is absolutely ridiculous of the Minister to imagine that parents will be given that opportunity. I urge the Minister to think about the geographical logistics that those living in rural New South Wales—and a very large number of people live in rural New South Wales—face on a daily basis. Emma goes on to say:

Ask yourself – 'if I had a low achieving child with below average results, would I want the rest of the country to know?' If this was the case, it does not mean that there is something wrong with your child, it may simply mean that they have strengths in other areas; but does everyone realise this I ask you?

The publication of such tables also affects teachers and schools - schools that are ranked poorly due to the results of their students will suffer not only by a lowered sense of success and ability, but may also suffer a decrease in enrolment numbers. It is important to note that not all results of students are a direct reflection of the teachers. Granted that this may be the case in some instances, but in other instances, the results could be attributed to ones access to resources and services, the social and cultural capital of their parents and also their socio-economic status.

As you can see, I am strongly against the passing of this legislation. Education is not something that should be thought of as having winners and losers; however the passing of this legislation will result in such thoughts.

She urges me to oppose the Rees Government legislation "as students, schools and communities will only be damaged by the publication of such tables". She put it so well that I wanted to put a significant amount of her letter onto the record. It is pretty much what I wanted to say to the House today.

I mention a couple of other things. What we should be debating in this place today is not the publication of league tables but how we are going to get rid of bullying in our schools. A real tragedy happened on the North Coast in the past fortnight—the death of young Jai Morcom—and we should all be reflecting on that here today and how each of us as members of Parliament can address this bullying epidemic that is occurring in our schools at the moment. All the schools in my electorate are experiencing bullying as much as schools on the North Coast. It is not just contained in a particular area, I am sure it is right through Sydney. We have got to put an end to bullying. It is unacceptable that it is still occurring in our schools.

We should also address childhood obesity. I wrote to the Minister for Education and Training in July following a meeting I had with a personal trainer, Noel Schiller from Young. Mr Schiller is 39 years old, is very fit and active, has four kids of his own and has had a working-with-children check carried out on him. He has offered to go around to the small schools in my electorate that face really severe obesity challenges and physical education shortcomings because many of them are just single-teacher or two-teacher schools and the students do not have the motivation to get out and exercise themselves.

That is reflected in the children. Mr Schiller came to see me and offered to perform this community service for a small fee. He would probably have lost money, but he was keen to ensure that we tackle obesity in country areas because it is out of control. I was disappointed today to get a knock back in the mail from the Minister. She has no idea about the obesity problem facing country kids. This was a great opportunity for someone to go from school to school, covering a significant distance, to provide that assistance. However, the Minister knocked the proposal on the head. She does not care about obese kids, the geographical challenges that we face in the country, single-teacher schools or the additional pressures and burdens they confront. It is disgusting and disgraceful. Roll on the election, because I want to get that program in place. I hope the Minister reconsiders.

We are dealing with obesity, bullying and myriad other hurdles, but we are talking about league tables, further embarrassing schools and imposing more pressure on students and teachers. We must reinstate funding for positive educational outcomes for kids in country areas, including kids with disabilities. The Minister for Education and Training is laughing. She closed the Bellhaven Special School at Young a couple of months ago. The school had been operating for 50 years and has been strongly supported by the community with fundraising events throughout its history. The kids who attended the school have now been forced into mainstream schools. The community is still upset about that.

Country schools will always face challenges because of their geography. It is unfair that a city-based Minister for Education and Training does not see fit to have the Government's policies reflect the needs of kids in country areas, their parents, their P and C, their community, their teachers and their principal. It is time that she visited the heartland of rural New South Wales. Once again, I invite her to visit Burrinjuck so that she can see my schools and talk to the principals with me. If she were to do that she would see the situation as I see it. I would warmly welcome her and offer her generous hospitality. I want her to understand the challenges that we in the country face on a daily basis. I once again put on the public record my total opposition to the publication of simplistic league tables as a reflection of a school's performance.

Mr ANDREW CONSTANCE (Bega) [11.14 a.m.]: I will make a brief contribution to this debate on the Education Further Amendment (Publication of School Results) Bill 2009 as a member representing a country area. Like my Liberal-Nationals colleagues, I oppose this legislation. Again, I make it clear for the benefit of the Minister for Education and Training and the Labor Party that the Liberal-Nationals strongly support parents getting more information about their child's and their school's performance and how their school compares with similar schools. That information is already available and there should be more of it. However, that does not mean that we should allow for the publication of simplistic league tables that will do nothing more than potentially harm the reputation of schools around the State to the detriment of schoolchildren. That is at the heart of this matter.

We do not want ranking of schools from top to bottom regardless of their differences. The bottom line is that we cannot fairly compare a school in Bega to a school in Bankstown. It is simply not possible. To go down the slippery path that this Government and the Federal Minister for Education, Julia Gillard, are going is not good public education policy. The disappointing thing about this debate is that there are much more pressing education issues in New South Wales than league tables. We must have that debate, but in recent times public policy debate about education has been bogged down on league tables. Of course, one of the main reasons for that is the crude politics being indulged in by the Labor Party. It is playing politics with the media and the Opposition and in doing so it is putting at risk the education and wellbeing of students around the State.

Many schools in country areas find it difficult to secure resources. Like most members, I understood league tables were used as a diagnostic tool for the bureaucracy to determine how to allocate resources appropriately to schools. They are not produced for media outlets to publish and in the process to shame a Government because of its resourcing of particular areas. The bottom line is that we must ensure that the league tables and other diagnostic tools used by the bureaucracy result in the appropriate allocation of resources without any political interference.

The primary focus of many country schools is attendance, particularly where there are low socioeconomic demographics and cultural issues involving Aboriginal students. We must not allow the publication of crude league tables because that will cause more harm than good. That is the public interest test. We should ensure that resources are allocated to schools not based on politics but on need. The media and politicians can interfere in that process, and do so in a particularly harmful way. We must not lose sight of that issue in this debate. We should also move beyond it, because, as I said, many other important education issues need attention in this State, particularly with regard to the professional development of teachers and the curriculum.

Only the other day I had a discussion with a school principal who expressed concern about the fact that maths is not a mandatory course for students in years 11 and 12. That is the type of debate we should be having. Instead, public policy discussion about education in this State is a mess that will potentially result in more harm than good. The media, government and politicians should step away from this and look at what we are trying to achieve in education policy. The Opposition opposes this legislation. We are opposed to the simplistic publication of crude league tables. As I said, league tables are diagnostic tools to be used by the bureaucracy to allocate resources to schools in need. That is the important point and it is being lost in this debate. I strongly urge the Minister to ensure that she examines this very closely.

I also recognise the Minister is busy because of this type of debate. I am very keen that she meets with the delegation of school principals and parents and citizens associations from Bega, where we have had a very healthy community dialogue around the merging of two schools into one school site—not an easy process. The school community is very keen to get on with it because it is reliant on the Building the Education Revolution money to provide greater facilities for one new public school in Bega. I hope the Minister can make herself available for that meeting in a fortnight. We are going to oppose this bill but it is important we do not lose sight of what is key in education policy in this State, and that is the educational outcomes for students.

Mr GREG PIPER (Lake Macquarie) [11.20 a.m.]: I also contribute to the debate on the Education Further Amendment (Publication of School Results) Bill 2009. I will be opposing the bill. I have just come from the Jubilee Room, where I have been speaking with four students from Toronto High School, in my electorate. That is deep in Labor heartland, and it is one booth in my career in politics that I have never won. I would like to but I am not anticipating I will win it at the next election either. Speaking to those four students, who are in the Jubilee Room to be honoured for their efforts through their high school, I found they certainly understand the issue of concern about simplistic leagues tables, and they are also very much opposed to it. They were pleased I was going to speak on the matter today.

When the Education Amendment (Publication of School Results) Bill 2009 was first introduced to this House I opposed it because it created the information base and the opportunity for the media to compile simplistic league tables that will brand some schools as winners and some as losers. I believe there is a widespread rejection of this in the community, yet this is the inevitable result of changes that this bill will introduce. The amendment allowing a \$55,000 fine for a media outlet that publishes league tables is a serious, albeit imperfect, attempt at preventing the abuse of data, although it would be of reduced value if applied only in New South Wales. However, at the moment these amendments are all that can prevent a repeat of sensationalist news stories such as the front page "Class we failed" story from 1997.

When that bill was first introduced to this House the Minister for Education and Training spoke about the need for meaningful information for parents regarding school performance. This would be in the public's interest and should be supported. Information comparing schools should be used by the Department of Education and Training for the purpose of planning the effective and efficient operation of schools, but there are risks in allowing comparisons by others. This newer version, the Education Further Amendment (Publication of School Results) Bill 2009, will pave the way for a new social inequity. The stigma of being educated at a poor-quality school can have lifelong impacts on individuals, and lead to a reduced opportunity in further education and employment. Worse, it could have lasting effects on whole communities. The former amended bill was, in my view, supportable—this bill is not.

A major objective in school education should be to provide a level playing field with equal opportunity. If simplistic comparisons are made some suburbs will be considered to be of lower social status, at least in part because the local school is seen to be a comparative failure. If this bill is passed there will be only one thing to prevent the media from publishing simplistic league tables—that is, the conscience and sense of fair play of news editors. I am sure we can all understand that this is a huge risk to take and in long-term social costs the stakes are high. With the media-driven events of the last fortnight, the New South Wales Government should be particularly attuned to the impact an editor can have when breaking new ground with a subjective opinion on what information should be published. Many think that extraneous personal information is irrelevant if it does not affect a Minister's performance and that what matters is the way he does his job. Personal matters should not necessarily lead to public humiliation. I feel that an even wider majority of the population would see that the way to assist schools is not to expose them when they perform poorly, but to assist them to perform better.

Anyone responsible for the wellbeing of our children and the future of New South Wales as a whole should be educating to a particular minimum standard and taking appropriate steps to help schools reach that standard. This means that there should be a way of identifying schools that need help and this is an appropriate time for comparisons. It is not appropriate to allow comparisons that will prompt parents to abandon their local school, make it difficult to attract good teachers to certain communities, and brand school leavers as having a lower worth than their peers.

I have listened closely to the debate from both sides of the House and I am pleased that members on the Opposition benches are opposing this bill. While I am pleased that is the case, I am also absolutely surprised at the comments and the content of much of the debate that has come from the Government benches. I have generally grown up as a supporter—I believe anyway—of the ideals of the Left. I have always been a strong unionist and supporter of many social issues and social causes, and I am absolutely appalled that the New South Wales Labor Party has moved so far to the right that it has reached a stage where it could be exposing communities, and many of them in lower socioeconomic circumstances, to this risk of impact on their sense of wellbeing. That flies completely in the face of what I understood the Labor Party to be about. I suspect that has come about because it has been forced into it to a large degree by the Federal Government and by the Federal Minister for Education, Julia Gillard. This is a time to show resolve, to show some backbone and to stand up for what is right to look after the students and communities in New South Wales. I oppose the bill.

Mr VICTOR DOMINELLO (Ryde) [11.26 a.m.]: I oppose the Education Further Amendment (Publication of School Results) Bill 2009. I have heard the debate in this Chamber and on the whole the contributions appear sincere from our side of the ledger. I have been around the community of Ryde and have been listening to school principals and parents. They have all told me unanimously that they vigorously oppose the publication of simplistic league tables. I have spoken to the Teachers Federation, whose representatives have come into my office and asked me again to strenuously oppose the publication of simplistically tables because it is not in the interests of children. To me, the most important hallmark of a healthy democracy is a free and independent press. Only in exceptional circumstances should governments attempt to control—

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

Mr VICTOR DOMINELLO: As I was saying, only in exceptional circumstances should governments attempt to control what should be published. The prevention of the publication of simplistic league tables is, in my view, an exceptional circumstance that warrants intervention. I really hope that one of the hallmarks of my service in this place is my commitment to look after the vulnerable in our society and particularly the children. There is a great quote from Sir Robert Menzies I often use to give me solace when I am thinking about what direction I should take and what functions I should serve in this place. I will share that with the House. He said:

The protection of the poor and the weak and the elimination of the causes of poverty and weakness are without doubt the supreme business of politics.

When Robert Menzies first talked about the poor and the weak he was talking about children who could be exposed to public humiliation through the publication of simplistic league tables. I strongly urge the Government to join with the poorest of people in the community, teachers, parents, principals and those who genuinely care about the welfare of our children to ensure that this bill is not passed.

Mr RAY WILLIAMS (Hawkesbury) [11.30 a.m.]: I shall make a brief contribution to the Education Further Amendment (Publication of School Results) Bill 2009. My children have completed their schooling in the last couple of years. I am directly involved in a wide variety of schools across the Hawkesbury electorate. As

the local member and in my previous role as councillor I have attended many school presentation evenings. Every year I attend about 30 presentation evenings. I am patron of three or four rugby league, soccer and cricket clubs involving thousands of children. Therefore, I come into contact with many parents on a weekly basis. The people with the most at stake on this issue are parents. They give their children, their greatest asset, into the care of schools, principals and teachers. They hope to get the greatest return for their assets. They hope their children will be given the best care and education that is available.

I always judge any issue on the opinion of the people most affected by it. When this issue first came up I sat back and did not have a view—other than to remember that I was very happy with the wonderful public education that my children received, first at Annangrove Public School and then at Galston High School. I was extremely satisfied with the way that they were cared for and educated. I thought, "What difference would it make if those schools had advertised in the paper how they performed or did not perform?" I waited to hear the views of the parents of the schoolchildren in my electorate. I state first and foremost that my electorate would perhaps have more school-aged children than any electorate across Sydney because it is a rapid growth area, a strong family-orientated area, with a plethora of schools and schoolchildren.

Despite all the media attention and profile of this issue, as yet I have not received one phone call, text message, email or statement from one person that the publication of league tables would be of benefit. The issue has not been raised at all. The Government has done itself irreparable damage in the eyes of teachers by trying to advertise simplistic league tables. Teachers know they have my total support. I know them personally and I get on well with them. Teachers provide a standard and quality of education second to none. This country is lucky to have such good quality education. The last thing I want is to degrade the role that teachers play. I shall give a broad overview of schools in my area. Currently Lower Macdonald Public School near St Albans has nine pupils enrolled. It is a beautiful area and it has been a pleasure to visit that school whenever I am out that way. That school provides wonderful education, to the same standard as other schools. I have attended Rouse Hill Public School, which now has a population of some 870 students.

Beaumont Hills Public School is just down the road. It is a wonderful school that is new to the area. It has been operating for the past five to six years and has some 600 students enrolled. Sherwood Ridge Public School, a new school located in the Kellyville area, has 650 students enrolled under the tutelage of Principal Jan Marshall. Kellyville Public School, which is an older school, has some 500 students enrolled. Glenhaven Public School has some 400 students enrolled, while Dural Public School has 350 students enrolled and Middle Dural Public School has fewer than 50 students enrolled. Glenorie Public School has 200 students enrolled, Hillside Public School has 100 students enrolled—the list goes on. My electorate has a diverse cross-section of schools in these closely populated residential and rural areas, yet I have not heard one word from one parent suggesting the need for more information to be advertised.

Ms Verity Firth: That is not what I've heard.

Mr RAY WILLIAMS: The Minister has said that is not what she has heard. That is right. I challenge any member to say that parents have raised this issue personally with them. I posed this question in the party room and my Coalition colleagues agreed with me. Parents have not challenged them on this issue. I put it to the Minister of Education and Training that parents are not knocking down her door; they do not regard this as a massive issue. However, she pushes ahead with it and will only get offside with our great teachers across this State. If the Minister is happy to do that, good luck to her. New South Wales principals and teachers know they have the support of the Liberals and The Nationals on this issue. We are more than happy to stand up for them.

Ms VERITY FIRTH (Balmain—Minister for Education and Training, and Minister for Women) [11.36 a.m.], in reply: Before I begin with the clear and unambiguous reasons that demonstrate why members should support the Education Further Amendment (Publication of School Results) Bill I will address issues raised by the Opposition in the course of this debate. I thank all members who contributed to this debate. However, I must also state on the record that only one member of the Opposition, the member for Vaucluse, addressed the substance of this bill. All other members of the Opposition, knowing that they had no intellectual merit behind their position, regaled the House with their opposition to league tables. It is a safe argument, but not relevant in respect of the issues at hand.

I think we have established that everyone is opposed to league tables. The Government has no intention of introducing the policies of the United Kingdom or the United States of America in relation to school closures into New South Wales. The bizarre assertion of the member for Murrumbidgee about New South Wales introducing the New York model is not even believed by the member himself. He has misled the House and he

knows it. We have complete confidence in the professionalism of New South teachers to teach the Board of Studies curriculum without being distracted by assessment. New South Wales teachers understand that assessment is not the purpose of their teaching.

But among the desperate arguments of the Opposition there were some surprising assertions. The member for Wakehurst seemed to be arguing that just getting students through the school door is enough in some communities. No member should ever suggest that this is an adequate expectation for any young person. I reject it utterly, and so should every member of this House. The member for Murrumbidgee argued that at the very least students should leave school with hope. That is not good enough. The Government believes that all young people, even those from the most disadvantaged and difficult backgrounds, should leave school with a little more than hope. In their embarrassment at having hastily agreed to an amendment that they no longer support, Opposition members exposed some alarming prejudices about the capacities of young people from disadvantaged backgrounds and about the liberating effects of schooling. Many members argued that young people from disadvantaged backgrounds should not be expected to perform well in assessment.

Mr Geoff Provest: That's not right.

Ms VERITY FIRTH: That is exactly what many members argued. Nothing better illustrates the soft bigotry of low expectations than these arguments. Of course disadvantage creates barriers to success. That is precisely why education is so important and why making sure that schools are given every opportunity and every resource to improve the outcomes of these students is a fundamental part of a good government. Any teacher listening to Opposition members last night could be forgiven for changing careers. Opposition members seemed to be arguing that there is simply no point in doing what they are doing, that demography really is destiny, and that there is only so much that governments and education systems can even aspire to do when it comes to some school communities. I reject that assertion and the prejudice behind it.

Many members on both sides of this House were given their most important, and in some cases their only, opportunities through schooling to escape the poverty of their backgrounds. For many young people school is their only chance to escape from the limitations imposed by postcode and background. And that is why it is our job and our responsibility to get it right. One of the criticisms of the Australian education system is that, although we are achieving when it comes to excellence, we are still not achieving as we should when it comes to equity. I will now quote Julia Gillard on the SBS *Insight* program on 18 August 2009. The reason I do this is that it goes to the heart of what the Commonwealth's reforms are actually about: equity, and driving equity in educational outcomes. Julia Gillard said:

The aim of the exercise is to change low performing schools ... if we find schools that are failing behind, we will be there with our new national partnership for disadvantaged schools, with new resources, we will be there with our new teacher quality initiatives which are about bringing the best teachers and paying them more to go to disadvantaged schools and we will be bringing those ingredients and our new literacy and numeracy money to make a difference ... Kids only get one go at education ... We should say to ourselves, doesn't matter how difficult a child's background, they can succeed in education if we get education right. We owe that to every Australian child that they get a good education in a great school and we particularly owe it to the children who come from the households where education has to do more for them to make a difference.

It is no mistake that the vast majority of the new funds from the State and Federal governments as part of the national partnerships are being directed to schools serving low socioeconomic status communities. This is where Government's focus, both State and Federal, has to be. These children and their parents deserve the same information and the same expectations as those from privileged backgrounds. The assumption that postcode equals outcomes is not only discredited but offensive. This Government will never differentiate between schools and allow them to operate under different definitions of success. Nor will we allow some parents to be given access to information that others are denied because of their personal circumstances.

Surprisingly but accurately, these were some of the arguments raised by the member for Vacluse. It would be useful for his colleagues to read his contribution from last night. Transparency and league tables have occupied a huge amount of energy, meetings, papers, speeches and argument in this House, as well as over dinner tables, at the sidelines of sporting matches and at barbeques this year. They have become the hot topic among educators, parents and observers. But amidst the swirl of political interests and media hyperbole there are real issues at stake. The balance is between the public's right to know, the Government's responsibility to be transparent, and the consequences of knowledge and the effects of this transparency.

At this time I would like to clarify the issues involved in this debate, because these are significant matters and there are serious consequences for getting it wrong. These are the challenges of government—a privilege that the Greens do not aspire to and that the Opposition has not earned. We have made it clear from

day one that we are opposed to school league tables. A clear indication of this is the robust discussion on this issue, and this legislation, on our side of politics—a debate that we all know is mirrored in the party room discussions of those opposite. Only the Greens, with the benefit of ideological purity and the certain knowledge that they never have to enact their policies, are beyond productive engagement in this issue.

What is implicit in these discussions about league tables is that schools are not yet, and never should be, a commodity. They are not retail outlets. And virtually everyone in the community wants to protect schools, and their principals, teachers and students, from unwarranted attack. Geography, religion, philosophy and economic circumstance all intersect when parents choose where their children will go to school. This is not a decision taken lightly by parents anywhere. And it is rarely based solely on school results. As I have said before and will say again here, leaving your child at the school gate is one of the most significant acts of trust an adult ever faces. We choose schools for a variety of reasons, but there is always some level of trepidation in the process and a desire that our decision will be vindicated through the happiness and successes of our children. Why would one not provide parents with factual, contextualised information to help them in this process? That is what I do not understand about the Opposition's position.

League tables—a ranking of schools based on student results in tests—are a crude measure of school success. They tell us something, but not everything, and they do not tell us why. We oppose league tables because, in the absence of other discriminators and other information, and with the emphasis given to them by the media, they may achieve a level of importance that they do not deserve. Teachers and schools do not all begin their work on a level playing field. A school or a teacher may lift a child's performance, knowledge, understanding and happiness to an extent that the child's life is transformed. We know that raw score comparisons do not easily measure or identify these achievements.

Schools' student populations can be so radically different that comparisons or rankings become nonsensical. In rural and remote communities, where there may only be two or three primary or high schools, stark comparisons and possible enrolment shifts have even greater consequences. And there is an underlying and understood sentiment that such comparisons are simply not fair. So we are all opposed to league tables. But that is the easy part of this debate. That is the part of the debate that the Opposition has been politically exploiting and trying to simplify. The difficult part of this debate—which Opposition members cannot grasp because it is all about politics—

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

Ms VERITY FIRTH: The difficult part of this debate is about defining transparency. Being opposed to simplistic reporting—which we all are—does not equate to being opposed to the public provision of information. The New South Wales Government has been providing information to parents via annual school reports and other means for a decade. This information has gradually become more complex but also more important. The way that information is provided is not consistent, nor is it mandatory that any of the schools provide comparisons with like school groupings. So the information is not all out there. We believe in transparency, and we support the Commonwealth's endeavours in this area.

As I have argued before, the key issue in this debate is how governments, both State and Federal, respond to the consequences of transparency. We will support this transparency with investment to those schools that require it and publicly defend schools that are treated unfairly. We will make sure that the complexity of education practice and the context in which schools operate are understood. And we will disseminate good practice and address outstanding problems. The Commonwealth website promises a new era in information provision that ultimately will benefit schools, students and their parents. This is not about attacking schools, principals or teachers; it is about trusting the community and bringing it fully into the debate about quality schooling. But a solution that differentiates between people on the basis of their access to technology is no solution at all. And that is the effect of the Greens-Coalition amendment. It says that if you own a computer and are connected to the Internet you have access to information that those who read the daily newspapers do not have. Even if the information is crude and simplistic, to discriminate between media, as the Greens-Coalition amendment does, is actually to differentiate between the users of different media.

It is the view of the Government that our opposition should not be expressed by selective bans on media reporting information banks that imply a distrust of the community's capacity to make decisions. This is why the Opposition's stance has created such consternation in the liberal community. It is a "we know best" mentality, which is the hallmark of the Greens attitude to the general population, but it is an unusual position for those opposite. The member for Murrumbidgee has allowed his concern for the possible consequences on some

of the school communities in his electorate to cloud his responsibility to respect his community's right to make its own decisions with all of the facts to hand. The New South Wales Government has done all it can on league tables through legislation. We did it 10 years ago and those same protections apply now.

Mrs Shelley Hancock: No, they do not.

Ms VERITY FIRTH: I am sorry, they do. They have been made firmer by being moved out of the regulations and into the Act. To say anything else is misleading the House, and the member for South Coast knows it. But school outcomes data—this is something that has not been grasped by any Opposition member—will now sit in a national repository. That is, national testing and data now sit in a national repository. It is no longer an issue for New South Wales alone. It is neither possible nor desirable that New South Wales erect a firewall on national data. Moreover, the wealth of information that demonstrates how schools are working should be in public hands. It should be contextualised information. It should be rich information. It should be robust information.

We need to tell the whole story of school performance even if some sections of the media only use simplified grabs. This is the only real answer to league tables: to encourage debate and provide information. In fact, the real answer to league tables is more information and transparency, not less. As I have told the House before, if a simplistic league table is published by a media outlet, I will be the first out of the blocks to condemn it as a simplistic league table. I will then point the community to the Federal Government's website—complete with rich, factual and contextual information about every school in Australia—and say, "You do not need to look at that simplistic league table. The information is here: information for parents rich in context and only allowing comparisons between schools serving similar communities."

Mr Victor Dominello: By that stage the damage is done. You cannot do anything.

Ms VERITY FIRTH: While I will acknowledge that the intent of the Greens-Coalition amendment was to protect school communities, I do not think the intent was wrong. They must also acknowledge that the amendment will not work. That is something that the Opposition will not take on board. It knows it will not work and it wants to politically grandstand. It fails the fundamental test of a democracy by infringing on the freedom of citizens to see, understand and have an opinion on the services their society is delivering. I cannot believe how far the Coalition has walked from its principles on this, but it does not matter.

The Greens-Coalition amendment should be removed from law because not only can it not deliver on its intent but it also has a range of unwanted and unintended consequences. It is therefore poor law. Despite the way this debate has been characterised, it is not an argument where one side, the Government, is in favour of league tables and the other side, the Greens and the Coalition, are opposed. The Opposition knows very well that the Government is not in favour of league tables but it is in favour of information—information to define policy, to enable communities to get the help they need and to shine a light so that those communities get the services they deserve. It is not good enough to argue that there are certain people and communities where just going to school each day is enough. That is not good enough and that is exactly what the Opposition has argued in this House. The Opposition does not want the shining light of transparency on that performance and that is exactly what it has been arguing.

Therefore, the key points on the reintroduction of this legislation are: Will the legislation work and what other consequences will it have? The answer to the first question is a resounding no, the legislation will not prevent league tables. The answer to the second question is a clear yes, it will create all sorts of problems. I have already outlined them in the agreement in principle speech but they should be listed again so that those opposite are completely clear about the effects that will flow from their support of the Greens position.

Mr Victor Dominello: It is about transparency—let's get that right.

Ms VERITY FIRTH: I did not hear that in the member's speech. They are wrong in principle. They lack proportionality—the fines do not reflect the seriousness of the offence. They will cause people outside New South Wales to commit offences without being aware they are committing them, including the Queensland Government. They fetter free speech, public debate and academic freedom, possibly so as to be unconstitutional. They irrationally discriminate between what can be published by different kinds of media organisations. They thwart responsible public reporting of school performance, not just irresponsible reporting. They overturn the system of accountability of government schools.

The league table debate has been a healthy one. It demonstrates this Parliament's legitimate concerns and its responsibilities with regard to education. It arouses passions and disputation, but it has ultimately been an important debate. One of the reasons why it has been important is that it has been extraordinarily productive. No participant or commentator will now publicly back simplistic and unfair comparisons between schools—that is true. It is true that both sides of the House have enabled that to happen. The Greens-Coalition amendment now needs to be removed. Any reasonable analysis divorced from party-political argument demonstrates this.

Mrs Shelley Hancock: You supported it before.

Ms VERITY FIRTH: As the member for South Coast knows, the Government voted against it in the upper House. She knows that, so she can keep saying that. The numerous problems have been identified and debated. It is not the solution to a problem; it is a problem in itself. The Opposition hastily supported an amendment and now it does not know how to get itself out of the mess. It is easy: The Opposition should support the Government's legislation.

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

The House divided.

Ayes, 45

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

Noes, 34

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 J. H. Turner
Mr Constance	Mr O'Dea	Mr R. W. Turner
Mr Dominello	Mr O'Farrell	Mr J. D. Williams
Mr Draper	Mr Piccoli	Mr R. C. Williams
Mrs Fardell	Mr Piper	
Ms Goward	Mr Provest	<i>Tellers,</i>
Mrs Hancock	Mr Richardson	Mr George
Mr Hazzard	Mr Roberts	Mr Maguire

Pairs

Mr Daley	Mr Fraser
Mr Furolo	Mr Hartcher
Mr Gibson	Mr Page
Mr Harris	Mr Stoner

Question resolved in the affirmative.

Motion agreed to.

Bill agreed to in principle.

Passing of the Bill

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

INDEPENDENT COMMISSION AGAINST CORRUPTION

Report

The Speaker tabled, pursuant to section 78 of the Independent Commission Against Corruption Act, the report entitled "Investigation into corrupt conduct associated with tendering for TransGrid work", dated September 2009.

Ordered to be printed.

BIRTHS, DEATHS AND MARRIAGES REGISTRATION AMENDMENT (CHANGE OF NAME) BILL 2009

Agreement in Principle

Debate resumed from 3 September 2009.

Mr GREG SMITH (Epping) [12.05 p.m.]: I lead for the Liberal-Nationals on the Births, Deaths and Marriages Registration Amendment (Change of Name) Bill 2009. The Coalition does not oppose the bill. The bill amends the Births, Deaths and Marriages Registration Act 1995 to change the application criteria for the registration of a change of name, to place restrictions on the registration of a change of name, to require that an applicant or registration of a change of name disclose whether he or she has a criminal record, and to facilitate access to change of name information on the registry by specified law enforcement and investigative agencies.

By way of background, on 14 July 2009 newspapers and the radio and television media were ablaze with the headline, "AG staffer's criminal record undetected after name change." It seems that the New South Wales Attorney General, the Hon. John Hatzistergos, had no idea that a woman who had worked in his office for four years had a criminal record. The Attorney General said this was because she had changed her name. He said he did not know until April this year that this employee had been convicted of drug possession charges. One wonders what access that lady had to confidential documents and telephone calls, the discussions she overheard and whether she was a security risk. We do not know that information, but we know she had a criminal record. Following a meeting on 13 July 2009—that date may be incorrect—the Premier announced that the New South Wales Police Force and the Government had found a solution. The then acting Attorney General, Verity Firth, said that the Government had come up with a way to notify police when criminals change their names. She said:

All the changes that were announced yesterday will mean that this will never happen again.

In principle, agreement was reached on a process in which information will now flow to police to ensure that they're alerted each and every time a person changes his or her name.

The Premier also issued a statement in which he said he would urgently consider implementing police checks for all ministerial staff members. He said that New South Wales would be the first State to implement such checks, which currently are undertaken only by the Commonwealth Government. We are still waiting. The object of the bill is to close a loophole that has allowed serious criminals to hide behind legal name changes. Police Association of New South Wales President Bob Pritchard said that previously privacy laws have prevented police from knowing the new identities of paedophiles, organised crime figures and alleged murderers. One paedophile legally changed his name and attempted to adopt a child, and a member of the Bandidos outlaw motorcycle gang evaded a murder investigation for several years after changing his identity by deed poll.

Under existing laws criminals can change their name by deed poll and the Registry of Births, Deaths and Marriages is not required to automatically notify the police. I am not sure whether the Parliamentary Secretary referred to this point in his agreement in principle speech. Harder to detect is when criminals adopt the identity of a fictitious, dead or living person, use forged, corruptly obtained or stolen documents, or use the identity of a dead infant—called the *Day of the Jackal* method—by scouring headstones at cemeteries. The latter method was successfully used by the Mr Asia syndicate, as highlighted recently in the *Underbelly* series.

In 2007 laws were amended to prevent a child sex offender changing his name without the approval of the police commissioner. It was foreshadowed that changes would be introduced to make sure that police had complete access to the present and former identities of people they were investigating by ensuring they were notified automatically when criminals changed their name by deed poll. Many criminal records I have seen over the years in relation to prosecution proceedings often contain aliases used by criminals—in some cases they have used 20 or 30 different names. I am sure they did not change their names by deed poll. Will the Government solve that problem too?

A number of sections of the Births, Deaths and Marriages Registration Act 1995 are amended by this bill. Section 27 is amended to provide that an adult may apply for registration of a change of name. However, the applicant's birth must either be registered in New South Wales or, if born overseas, the applicant must have been resident in New South Wales for at least the past three consecutive years. Section 28 provides a similar amendment in regard to children. Sections 29A to 29C are inserted into the Act. Section 29A requires the registrar to include a requirement to the effect that an applicant disclose a conviction for a relevant offence. A relevant offence is an offence punishable by imprisonment for 12 months or more and applies for New South Wales convictions and overseas or interstate convictions. Failure to comply with this requirement would bring an applicant in breach of section 57, which is an existing section relating to the provision of false and misleading representations. There is no increase in the existing penalty. Why?

Section 29B provides that a registrar may not register a change of name if one has already been made within the past 12 months or if more than three changes have already been made. Section 29C includes a proviso that an order may be made in respect of a protected person or their children if there is a satisfactory reason demonstrated for the change. They would be people protected under the Witness Protection Act or other legislation or administrative arrangements that offer protection for the sake of personal security. Section 46 is the section that grants access to the Register of Change of Names to specified law enforcement agencies such as the New South Wales Police Force, the New South Wales Crime Commission, the police forces of other States and of the Commonwealth, and any other law enforcement or investigative agencies of the Government of New South Wales and of other States of the Commonwealth that are prescribed by the regulations. This is subject to entering into a memorandum of understanding.

I wonder whether prospective employers can access this information also. What happens if somebody wants to work in the Office of the Director of Public Prosecutions or the Attorney General's Department or some other department? Will those departments have access to this information, or is it just the police? Will they have to go to the police first to get the information? That is what some agencies generally do. I know that the Office of the Director of Public Prosecutions did so in respect of prospective employees but I do not know whether every other agency follows that course. That issue should be considered. Schedule 3 amendments ensure that the amendments apply where an application has been made but has not been finally determined before the commencement of this Act.

Arguments in favour of the legislation include that the amendments close a loophole in regard to habitual name changing. As I pointed out, that is getting a name change registered by deed poll. No offence is created by this Act if a person just changes his or her name. A name can be changed only once in a 12-month period and only three times in one's lifetime unless a court orders otherwise. Currently, there is no restriction on people born outside New South Wales applying for a change of name in New South Wales. Now there will be a requirement that the birth must be registered in New South Wales before a change of name can be registered.

The restrictions do not apply to victims of domestic violence or people in witness protection programs. The bill also ensures that the law enforcement authorities are entitled to access the records of changes of name. It requires applicants to disclose serious criminal offences. The problem is: What if somebody is a noted fraudster who just keeps changing his or her name? Even if the person registers a change of name by deed poll how do people find out about it when that person tries to sell them something, such as a fancy vacuum cleaner, or tries to get them to enter into some sort of financial arrangement where they have to pay a deposit? How is the public protected from such people?

Mr Barry Collier: You're restricted on the number of times you change.

Mr GREG SMITH: You are restricted. But that does not cover the situation where the person is simply using another name and is not registered under that name. Maybe they have pinched somebody's licence and have had a good forger make up other documents.

Mr Barry Collier: Try the Crimes Act.

Mr GREG SMITH: If you catch them, mate! What about that guy in Queensland who defrauded people all around the world? I will not mention his name because he may not have been convicted, but he certainly got a lot of publicity. He has got the same surname as a famous brand of beer. In arguing against the bill, we contend that it does not solve the John Hatzistergos problem, where an employer employs a person with an undisclosed criminal record. There is no retrospectivity to this legislation. One cannot discover whether a person is a criminal if that person has already registered his or her new name and thus does not have to declare all his or her crimes. In that case we do not have all the information. I query whether the legislation should be retrospective. The legislation applies only to applications made but not determined and has no sunset clause if the person has prior convictions. Apart from these arguments, the bill will have facility. It will tighten up identification fraud methodology. It is a bit like water finding its course: We will have to keep pursuing those sorts of people because unfortunately they will work out other ways of conning the community. As members may gather from what I have said, we do not oppose the legislation.

Mr NINOS KHOSHABA (Smithfield) [12.16 p.m.]: I am pleased to support the Births, Deaths and Marriages Registration Amendment (Change of Name) Bill 2009. This bill ensures that it is a crime to lie about your criminal history when applying to change your name. To ensure that people with a criminal record do not abuse the change of name system, the bill amends the Act to specifically require a person applying for a change of name to disclose whether they have a criminal record. The provision of false or misleading information in this regard will constitute a separate offence, with a maximum penalty of 100 penalty units or two years imprisonment or both. While having a criminal record does not stop a person from changing their name, it is important that they declare if they have a criminal record so that relevant records may be updated.

I note, however, that if a person is a "registrable person" under the Child Protection (Offenders Registration) Act 2000—for example, a paedophile—that person must provide written approval from the Commissioner of Police if he or she wishes to apply to the Registry of Births, Deaths and Marriages for a change of name. I also applaud the fact that the bill will allow a person to change their name by registration only once in a 12-month period, and only three times in their lifetime. A person's name represents them to society and is relied on by society. Any changes to a person's name should be taken seriously and should not be done on a whim. This bill will ensure that changes of name are not made for frivolous reasons. I strongly support the amendments to the change of name system that stop criminals from escaping their criminal past and being able to undermine police efforts by changing their name. I commend the bill to the House.

Mr STEVE CANSDELL (Clarence) [12.19 p.m.]: I support the Births, Deaths and Marriages Registration Amendment (Change of Name) Bill 2009. The Attorney General stated in his second reading speech in the other place on 1 September that the vast majority of changes of name are sought for legal and appropriate reasons, but some individuals may attempt to abuse the system to conceal a criminal past. That is exactly what is happening. The fact that a woman with a criminal record worked for four years in the Attorney General's office might be the motivation behind this legislation. It would have been embarrassing for the Attorney General to realise that someone in his office had a criminal record and had changed her name.

Bob Pritchard from the Police Association has said that police officers have been crying out for some time—as has a senior police officer in the Clarence—for action to be taken to deal with the fact that when someone changes their name their history stays with their birth name rather than attaches to their deed poll name. Hopefully, this legislation will rectify that anomaly and introduce some commonsense to checking procedures for police and child protection authorities. A person's birth name and history should be tied so that the authorities checking their background have access to that information. Authorities should not have to undertake special checks to establish whether John Doe has another name. That information would not necessarily be generally available, but it should certainly be available to law enforcement and child protection authorities. It is important that privacy laws do not hamper the officials charged with protecting the majority of people in this State.

I wonder why so many people in this State want to change their name. In 1996, 3,911 males and 4,000 females—a total of 7,911—changed their name. In 2008, 9,316 males and 13,580 females—a total of 22,896—

changed their name. The number almost tripled in 12 years. I understand that some people change their name to protect themselves and their children from domestic violence. In that case their identity must be protected. However, if a person has a violent criminal record or a record of child sexual assault, the provisions in this legislation should be made retrospective to allow law enforcement and child protection authorities to tie their record and birth name to their deed poll name. Members on both sides of the House agree with this important legislation, which will probably make the job of police officers a little easier and our community safer. It will also give our child protection authorities another tool that will allow them to better protect our children from paedophiles. I commend the bill to the House and hope that it makes ours a far better society in which to live.

Mr NICK LALICH (Cabramatta) [12.23 p.m.]: I am pleased to support the Births, Deaths and Marriages Registration Amendment (Change of Name) Bill 2009. This bill will help to prevent criminals from abusing the change of name system. I am also extremely pleased to see that New South Wales is again taking the lead in addressing this national problem. Not only will New South Wales be the first State to introduce more stringent change of name legislation, but it will also ensure that the Standing Committee of Attorneys General address the issue nationally using the New South Wales legislation as a basis. A national approach to the process will stop criminals being able to jurisdiction hop to change their name.

The amendments in the legislation will support the existing memorandum of understanding between the New South Wales Police Force and the Registry of Births, Deaths and Marriages. It enables designated police officers to access directly change of name information from the registry database. This will then allow police officers to update the computerised operational policing system [COPS] database. However, as with any personal information, it is vital that individual privacy is protected. Therefore, a number of mechanisms have been built into the memorandum of understanding that will protect that privacy. Those protections are: only a limited number of police officers will have access to the registry's database and those nominated officers will sign confidentiality agreements and undergo ethics and privacy training; nominated officers' access to the database will be audited by both the registry and the Police Force to ensure that it is not being misused; nominated officers will access the database only in respect of persons of interest and will record changes of names in the COPS database only if the person has a criminal history; and nominated officers will have access only to the person's new name, previous names and their date of birth.

The Privacy Commissioner has endorsed the privacy measures established under the existing memorandum of understanding. If a person abuses their access to the births, deaths and marriages database they may be charged with a criminal offence under sections 58 or 60 of the Births, Deaths and Marriages Act 1995, which carries a maximum penalty of two years imprisonment. I strongly support the amendments to the change of name system, which will stop criminals from escaping their criminal past and being able to undermine police efforts by changing their name.

Mr CRAIG BAUMANN (Port Stephens) [12.28 p.m.]: The primary reason for the introduction of the Births, Deaths and Marriages Registration Amendment (Change of Name) Bill 2009 is to toughen laws governing criminals changing their names. I find it bizarre that a criminal can change his name by deed poll but privacy laws deny police officers the ability to connect his record to his new identity. That is sheer lunacy. It is also amazing that the headline "AG staffer's criminal record undetected after name change" less than two months ago prompted this legislation. Is everyone on the Government benches so out of touch that it took one of their own getting caught out for them to work out what was happening? I assume that a new name does not mean a new tax file number. Surely our Federal Government is not as slack with identity security as is this inept Government.

I note that this legislation will tighten the loophole that allows people who change their name frequently to do so only three times in a lifetime. It also means that people born outside New South Wales cannot change their name in this State unless they have lived here for more than three consecutive years. However, the legislation will not address the problems of an employer employing a person with an undisclosed criminal record, as was recently experienced by the Attorney General. The legislation also fails to prevent people adopting a new name without seeking to register a name change, which raises concerns about the wider system. It appears to be far too easy for people to adopt names and to subsequently establish an identity undetected.

The current plight of a Newcastle man who almost lost his home in a case of mistaken identity has highlighted some major flaws in the system. I have already raised in this House the case of Newcastle homeowner Robert Mitrevski. Earlier this year, Mr Mitrevski went to see his bank manager about a car loan. His application was refused because his bank manager told him that he was \$3 million in debt. This Newcastle man,

who is on a disability pension, was obviously stunned. He investigated and discovered that a writ of sale had been placed on his Jesmond property through the Supreme Court by a Sydney couple. The problem was that Robert Mitrevski of Newcastle had been confused with a Robert Mitrevski of Sydney, who was involved in a lengthy legal battle that resulted in the writs of sale being placed on his properties. Because of the lack of owner's details on New South Wales certificates of title, the Newcastle Robert Mitrevski almost lost his home.

There appears to be a degree of looseness when it comes to proof of identification in such situations. When a person goes to get their driver's licence, open a bank account or join the local video store, one must produce 100 points of identification. When a person buys a property, the certificate of title only requires a name for the new owner—no birth date, no tax file number, no driver's licence number, no passport number, no Medicare number. If I have a title deed, I would be issued with a rate notice and I would not be too far off passing a 100-point test—suddenly the alias I have given has become a real identity. What a great way to hide assets; what a great way to launder funds.

When I buy a block of land, I ask the real estate agent to issue a contract. His sale notes and the purchaser's name that appears on those notes form the basis of the information that the vendor's solicitor needs to issue that contract. The vendor's solicitor has no idea of a purchaser's true identity and the agent is only interested in his next commission. I do not doubt that I could find a solicitor or conveyancer who will act for me without being suspicious and without really knowing who I am. I use a bank cheque for the deposit. The transfer and certificate of title would have the name appearing on the contract as purchaser and owner. I settle the purchase with a bank cheque and walk away with a valid certificate of title and no-one really knows who I am. This may have been sufficient in 1900 when the Real Property Act was introduced, but in the year 2009 this is ludicrous and rife with danger.

As I mentioned in the House yesterday, what is to stop a criminal from identifying a neglected block of land, searching for owner details, filling out a statutory declaration in the owner's name to have the Land Titles Office re-issue his "lost" title deed and then selling that block of land? The block should be neglected because the criminal really does not want to show a prospective purchaser around an occupied property. So, while the New South Wales Coalition will not oppose this bill, I call on the Government to consider further amendments to close this ridiculous loophole that allows criminals to flourish, and tighten the system before more innocent people fall victim.

Mr PETER BESSELING (Port Macquarie) [12.32 p.m.]: I too will be supporting the Births, Deaths and Marriages Registration Amendment (Change of Name) Bill 2009. I note the comments of my colleagues with relation to the bill and certain loopholes that can be tidied up. While I will not be going over the ground that a number of members have already highlighted, I would like to highlight one facet of the bill dealing with access to information. It may be something the Government has overlooked or not taken into account, and I urge it to do so. It relates to proposed section 46 regarding enforcement agencies. According to the Legislation Review Digest:

Proposed section 46A states that the Registrar may allow access by officers of a law enforcement agency to entries in the Register regarding changes of names, but only in accordance with a memorandum of understanding entered into by the Registrar with the head of the agency.

The Committee notes that access to the Register by law enforcement agencies may be considered to be an infringement of personal rights and liberties, in particular rights to privacy. The Committee also notes that proposed section 46A(5)(d) states that the regulations may prescribe any other law enforcement or investigative agency of the government of NSW or the government of another State or Commonwealth.

However, the committee also notes that proposed section 46A(2) states that the Registrar must not enter into a memorandum of understanding unless satisfied that the terms of the memorandum, as far as practicable, protect the persons to whom the entries in the Register relate from unjustified intrusion on their privacy. The committee notes these safeguards and refers to Parliament whether proposed section 46A unduly trespasses on personal rights and liberties, specifically rights to privacy.

My point relates to the study of genealogy and the number of worthwhile not-for-profit organisations who are active in this field. Genealogy is the study of families and the tracing of their lineages and history. Genealogists use oral traditions, historical records, genetic analysis, and other records to obtain information about a family and to demonstrate kinship and pedigrees of its members. The results are often displayed in charts or written as narratives. Genealogical research is a complex process that uses historical records and,

sometimes, genetic analysis to demonstrate kinship. Reliable conclusions are based on the quality of sources—ideally original records—the information within those sources—ideally primary or first-hand information—and the evidence that can be drawn, directly or indirectly, from that information.

In many instances genealogists must lawfully assemble indirect or circumstantial evidence to build a case for identity and kinship. All evidence and conclusions, together with the documentation that supports them, is then assembled to create a cohesive genealogy or family history. Historical, social and family context is essential to achieving correct identification of individuals and relationships. Genealogists begin their research by collecting family documents and stories. This creates a foundation for documentary research, which involves examining and evaluating historical records for evidence about ancestors and other relatives, their kinship ties and the events that occurred in their lives. As a rule, genealogists begin with the present and work backwards in time. To keep track of collected material, family group sheets and pedigree charts are used. Formerly handwritten, these can now be generated by genealogical software.

That brings me to this bill. In the process of converting one's name there is a record that is available to the police through a memorandum of understanding, which would certainly rule out broader access to some of these family history groups. Nowhere in the proposed legislation have I read anything that takes into account the impact of these proposed measures on the many people in our community who rely on the information that results from research into people's ancestry. The President of the Port Macquarie and District Family History Society, Mr Brian Panisset, a great man, supports the consideration of registrations becoming accessible for genealogists in the fullness of time. That is important. I realise there are privacy issues and it would take some further consideration. Consideration should be given to measures that would allow this information to become accessible to such researchers so long as steps are put in place to protect individual privacy and impede identity theft. I thank Mr Panisset for his valuable input and ask that his thoughts and comments be given further attention in relation to this bill. I commend the bill and ask the Government to consider those comments.

Mr MICHAEL RICHARDSON (Castle Hill) [12.37 p.m.]: The object of this bill is to amend the Births, Deaths and Marriages Registration Act 1995, first, to change the application criteria for the registration of a change of name; second, to place restrictions on the registration of a change of name; third, to require an applicant for the registration of a change of name to disclose whether he or she has a criminal record; and, finally, to facilitate access to change of name information on the register by specified law enforcement and investigating agencies. Most members would think that is all quite laudable. It is also, in the context of how this bill came about, laughable. It took revelations that a woman who had worked in the Attorney General's office for years had a criminal record, to bring the bill about.

Those revelations surfaced in mid-July when it was made public that the woman, who had been hired in March 2005 through a recruitment agency, had a criminal record for drug possession. The reason the Attorney General's Department had no idea of her criminal conviction was that she had changed her name in 2002 without disclosing her criminal record. Apparently they found out about her criminality in April and sacked her the same day. As the member for Terrigal, then shadow Attorney General, said on ABC radio on 14 July, "It is extraordinary that the very heart of the Government as far as law is concerned should be penetrated by criminals."

The loophole has existed for a very long time and no-one knows how many criminals have changed their names to avoid detection. One of my concerns about the bill is that it will not address those issues retrospectively, only prospectively. Bob Pritchard, President of the New South Wales Police Association, has stated that privacy laws have prevented police from knowing the new identities of paedophiles, organised crime figures and alleged murderers. I have major problems with the current privacy laws and their interpretation by, among others, financial institutions. Any member who has had to deal, as I have, with a frail aged parent and who has had power of attorney over that parent's affairs would feel the same way.

The Government should review the privacy laws as well as the Births, Deaths and Marriages Act. Under the existing laws criminals can change their name by deed poll and, astonishingly, there is no requirement for the Registry of Births, Deaths and Marriages to notify the police of the change. Of course, it is also possible for criminals to adopt the identity of a fictitious, dead or living person, and this may be harder to trace. Labor Party members are past masters at this. As we all know, they are very big at using the names of dead people for voting purposes in marginal seats. That has been well documented in books such as the *Frauding of Votes*. I do not see anybody leaping to the Government's defence about that, nor do I see anything, regrettably, in this bill to combat this practice. I might add, the way to do that is to require people to provide some photographic identification when they vote. That issue is long overdue for correction.

I turn now to the amendments. New section 27 states that an adult may only apply to change his or her name if he or she was born in New South Wales or, if born overseas, he or she has been resident in New South Wales for at least three years. I wonder whether the three-year period is adequate and whether that should not be a period of five years. That is a matter for consideration and conjecture. New section 29A requires an applicant for a name change to disclose any relevant criminal convictions and if they do not do so, they can be punished by imprisonment for 12 months or more. The most relevant criminal convictions, importantly, must be for offences committed here, interstate or overseas. Any convictions anywhere in the world punishable by imprisonment for 12 months must be disclosed. New section 29B states that people may not change their names more than once within 12 months or more than three times within a lifetime. Mild as this provision is, I believe that a five-year period would be more appropriate. I ask why anyone would need to change his or her name twice within, say, a 13-month period? It does not really make any sense at all.

Obviously this is not the situation for domestic violence cases. New section 29C overrides the provision, which is not only sensible but also necessary. Like all members I have had people visit my office who have been the victims of domestic violence. They have changed their names in an endeavour to escape from the tyranny of a violent partner, so that is an important amendment to the legislation. Restrictions do not apply to name changes through marriage. Although I have to say that my daughter, who was married last year and chose to change her name to her husband's, found considerable practical difficulties in dealing with banks and other organisations, I suspect because of the privacy and anti-terrorism legislation. That is an unforeseen consequence of the anti-terrorism legislation. The Government should take on board that matter and address it. Not everybody wants to be like the Prime Minister's wife and keep her maiden name.

Ostensibly this bill has been introduced to deal with the situation where a person with a criminal record has been employed in an area as sensitive as the Attorney General's Department. On 14 July 2009 the Acting Attorney General, Verity Firth, said that the Government had come up with a way of notifying police when criminals change their names. Importantly, at the time she said:

All the changes that we announced yesterday will mean that this will never happen again.

As we know from the contribution of the member for Epping, that is not the case. For a start, the legislation is not retrospective, so it will not pick up the case of a person who has previously changed his or her name and who fails to disclose a criminal record when applying for a job. It would not have stopped the employment of such a person in the Attorney General's Department, the situation that led to the bill coming before the House, nor would it have stopped criminals using aliases that are not recorded by the Registry of Births, Deaths and Marriages. The member for Epping referred to people he had known in his previous role as a Crown prosecutor who had 20 or 30 aliases. Obviously, this bill does not cover that situation. It will not cover someone who is in the news now posthumously, Michael McGurk, who according to the *Sydney Morning Herald* entered this country originally as Michael Rushford, overstayed his visa, fled to Fiji and then New Zealand and returned to this country with a new passport and a new name.

Mr Barry Collier: Point of order: The member is referring to a matter that is the subject of a murder inquiry; it is a matter for the police and will presumably be a matter for the courts. I do not think it is germane or relevant to the bill. I ask you to bring the member back to the leave of the bill.

Mr MICHAEL RICHARDSON: To the point of order: We are talking about people changing their names. This man did change his name.

ASSISTANT-SPEAKER (Mr Grant McBride): Order! I have heard enough on the point of order. It is quite clear that the member for Miranda has a point.

Mr MICHAEL RICHARDSON: You think it is quite clear, do you, Mr Assistant-Speaker?

ASSISTANT-SPEAKER (Mr Grant McBride): Yes.

Mr MICHAEL RICHARDSON: So I cannot actually mention the fact that, according to the *Sydney Morning Herald*, Michael Rushford changed his name to Michael McGurk, and the process by which he did it. Are you saying that is not germane to this debate?

ASSISTANT-SPEAKER (Mr Grant McBride): Order! All members understand that this issue will be before the courts. If the member for Castle Hill wants to raise the issue, that is a matter for him. However, it is not germane to the debate.

Mr MICHAEL RICHARDSON: I think it is extraordinarily germane to the debate.

ASSISTANT-SPEAKER (Mr Grant McBride): Order! I used the words of the member for Castle Hill.

Mr MICHAEL RICHARDSON: It is an issue that the bill does not address.

Mr Barry Collier: Further to the point of order: The police are conducting what is a murder investigation. What is on the front of the *Sydney Morning Herald* is merely hearsay. Changing this person's name may well be germane to a police investigation and I ask you to draw the member back to the leave of the bill.

Mr Greg Smith: To the point of order: If the member for Castle Hill were disclosing to this Parliament matters that he had received confidentially from either the police or someone else that may endanger or somehow undermine the investigation, then there would be a point of order. However, he is merely repeating matters that are at large, in the media, of which the public are well aware. He is just giving an example of someone apparently changing his identity. I do not mean any disrespect, but that does not breach parliamentary privilege. It is not sub judice because the matter is not before the courts at the moment. It can only breach the sub judice rule if somebody had been charged. Nobody has been charged at the moment. The fact that the man has been named in the media and his background and what he has done in the past has been reported upon, including having children and matters of that sort, does not amount to undermining an investigation.

ASSISTANT-SPEAKER (Mr Grant McBride): Order! I will listen further to the member for Castle Hill. However, if he continues to go down that track—

Mr MICHAEL RICHARDSON: I do not want to dwell on the case of Mr McGurk. But the principle remains that if a person who leaves the country after having overstayed his visa changes his name and then returns to this State under another name—perhaps an assumed name, using a false passport—that person is not covered by this legislation whatsoever. That must be a real concern, particularly with regard to criminal activity. It is most likely that people who are criminals are the ones who are going to engage in that sort of activity. Even the getting of a false passport in this country is a criminal action. That is an issue that the Government needs to address. I do not think the Government has fully thought through the Births, Deaths and Marriages Registration Amendment (Change of Name) Bill. There are other issues that need to be addressed. The mere fact that the bill does not address the issue that brought about the creation of the bill points to the flaws in the legislation.

Mr WAYNE MERTON (Baulkham Hills) [12.51 p.m.]: As many other speakers before me have said, the purpose of the Births, Deaths and Marriages Registration Amendment (Change of Name) Bill 2009 is to make certain changes to the Births, Deaths and Marriages Registration Act, specifically in relation to the change of name provisions. The object of the bill is to amend the Act as follows:

- (a) to change the application criteria for the registration of a change of name, and
- (b) to place restrictions on the registration of a change of name, and
- (c) to require that an applicant for registration of a change of name disclose whether he or she has a criminal record, and
- (d) to facilitate access to change of name information on the register by specified law enforcement and investigative agencies.

The bill arose as a result of an internal matter concerning an employee who had been employed in a government office for some four years. It would appear that the employee had changed her name. The issue of name change is not confronting this Parliament only in September 2009, as an issue that has recently risen. Name changes, and the problems that can arise from a change of name, have been an issue for the Government, the community, lawyers and other people in society for many, many years. This legislation imposes certain restrictions on changing one's name. The bill amends section 27 of the Act to provide that an adult person may apply to the Registrar for registration of a change of a person's name; however, the applicant's birth must either be registered in New South Wales or, if the person was born overseas, the person must have been a resident in New South Wales for at least three consecutive years immediately preceding the date of the application. The bill similarly amends section 28 of the Act with regard to children.

Sections 29A to 29C are inserted in the Act. Proposed section 29A requires the Registrar to include a requirement to the effect that an applicant disclose a conviction for a relevant offence. A "relevant offence" is an

offence punishable by imprisonment for 12 months or more, and applies for both New South Wales convictions and overseas or interstate convictions. Failure to comply with this requirement would bring an applicant into breach of section 57 of the Act, which relates to the provision of false or misleading information. The bill does not increase the existing penalty for that offence.

Proposed section 29B of the Act provides that the Registrar may not register a change of name of a person if such application has been made in the last 12 months, or if more than three changes of the person's name have already been made. Proposed section 29C provides that an order may be made in respect of a protected person or their children if a satisfactory reason is demonstrated for the change. Proposed section 46A of the Act grants access to the register of change of names to specified law enforcement agencies, such as the New South Wales Police Force, the New South Wales Crime Commission, the police forces of other States and the Commonwealth, and any other law enforcement or investigative agencies of the Commonwealth or New South Wales.

It is clear that this legislation closes a number of loopholes with regard to name changing. For example, under this legislation a person can only change his or her name on one occasion in a 12-month period and only three times in a lifetime, unless a court orders otherwise. Currently there is no restriction on people born outside New South Wales applying for a change of name in New South Wales. Under the legislation, there will be a requirement that the birth must be registered in New South Wales before a change of name can be registered. The restrictions, quite rightly, do not apply to victims of domestic violence or to people in witness protection programs. The legislation ensures that law enforcement authorities are entitled to access to the records of changes of name. As I have said, the legislation requires applicants to disclose serious criminal offences.

With regard to changing one's name and making a disclosure as to whether one has any previous convictions for relevant offences which are punishable by imprisonment for 12 months or more, a person who does not make such a disclosure can be prosecuted. The penalty for that offence has been set out under the legislation, but it is no different from the current penalty. For any person who is keen or anxious to change their name, I would suggest that the benefits the person may believe they can get by changing their name would be such that the penalty would be little deterrent. To put it bluntly, they would take the punt on getting caught, on the basis that they could walk out with a new identity and start a new career, for whatever purposes they might want. In some cases, unfortunately, some of those purposes are far from being in the interests of the community.

The legislation provides that a person can change their name only once in a 12-month period, which is reasonable. I cannot think of a circumstance in which one would want to change his or her name more than once in 12 months. However, a person can change their name no more than three times in his or her lifetime, unless a court orders otherwise. I do not know whether that is to cover broken-down entertainers and people who have been unsuccessful as singers and have decided they might make a new start, with a new image and a new name.

[Interruption]

I do not refer to the member for Epping in that respect: he is a very successful singer.

Mr Greg Smith: I have several stage names.

Mr WAYNE MERTON: He has a number of stage names. I understand he changes his stage name every 12 months. I also understand that during the period the member for Epping has been singing he has certainly not changed his stage name more than three times. So he is okay. That leads me to another aspect: this legislation is not retrospective. I am not in favour of retrospective legislation, but if it were not retrospective a whole litany of people would be running around with a changed name in circumstances that under this legislation would not be permitted. I bring that issue to the Government's attention.

Members might think that some of the changes may improve the situation—and no doubt they will—but in reality you do not have to change your name by deed poll or go to the NSW Registry of Births, Deaths and Marriages to fill out a change of name application form. You can change your name by using a name that has no relationship whatsoever with your registered name. It would not be hard to get community recognition and acceptance—

Mr Greg Smith: —of changing a Christian name from John to Jack.

Mr WAYNE MERTON: You would then have a new identity. The member for Epping is prompting me, and he is very good at it. He makes a lot of sense on most occasions, if not all. Instead of being John Sinclair you could become Jack Sinclair. You could be Michael Sinclair then after a while you could be Michael Simpson and eventually you could be Graham Simpson.

Mr Frank Sartor: Or Wayne Merton.

Mr WAYNE MERTON: If you are really desperate you could be Thomas George or Frank Sartor, but I doubt people would want that. Some people could aspire to use Frank Sartor's name and perhaps my name, Wayne Merton, but I doubt that very much—I am evening the score. It is almost impossible to stop someone changing their name if they are determined to do so. The legislation attempts to close a number of loopholes. It attempts to make it harder to change your name, but it does not achieve its purpose: to stop people from changing their names for unlawful or sinister purposes. The Opposition does not oppose the bill. It is a step in the right direction but there is a long way to go and there are still plenty of loopholes.

Mrs JUDY HOPWOOD (Hornsby) [1.02 p.m.]: I make a brief contribution to the Births, Deaths and Marriages Registration Amendment (Change of Name) Bill 2009. The object of the bill is to amend the Births, Deaths and Marriages Registration Act 1995 to change the application criteria for the registration of a change of name, to place restrictions on the registration of a change of name, to require that an applicant for registration of a change of name disclose whether he or she has a criminal record, and to facilitate access to change of name information on the register by specified law enforcement and investigative agencies. The bill is directed to closing a loophole that has enabled serious criminals and others to hide behind legal name changes.

The Opposition supports the bill, but it should have been introduced long ago. In the past paedophiles who have preyed on young children or those who have been involved in malicious activity have taken advantage of a loophole in the legislation to change their name. This bill closes that loophole to prevent people from habitually changing their name. The bill provides that a name can be changed only once in a 12-month period and only three times in one's lifetime, unless a court orders otherwise. Currently there is no restriction on people born outside of New South Wales from applying for a change of name in New South Wales. The bill provides that a birth must be registered in New South Wales before a change of name can be registered. The restrictions in the legislation do not apply to victims of domestic violence or people in witness protection programs. The bill ensures that law enforcement authorities have access to records of changes of name. It also requires applicants to disclose serious criminal offences.

I turn now to domestic violence. Other members have spoken about illegal activities and people who have changed their names to provide them with a new identity to continue illegal activities. Paedophilia has also been spoken about. I know of a domestic violence situation where a person, who may or may not have changed his name, acquired a job working in a non-government domestic violence organisation and was able to obtain information about his estranged wife—the victim. This sent shivers through the organisation. This could have led to the continuation of domestic violence and the possible death of his estranged wife. The man could have changed his name to make it easier for him to gain employment and access to his estranged wife so that he could keep tabs on her. The legislation is important from that perspective and I am sure the domestic violence network will welcome it.

The domestic violence network in the Hornsby Ku-ring-gai area does a fantastic job and I pay tribute to its workers. There is always the potential for victims of domestic violence to be contacted by perpetrators who have changed their names and gained employment in organisations that give them access to the victims. I will let my local network know of this legislation. I will welcome the legislation, as will the regional domestic violence network. I pay particular tribute to Josie Gregory and Amy David, who are at the forefront of working with other organisations and individuals with a great interest in domestic violence. The Opposition does not oppose the bill.

Mr RUSSELL TURNER (Orange) [1.06 p.m.]: I speak briefly to the Births, Deaths and Marriages Registration Amendment (Change of Name) Bill 2009. I note the purpose and description of the bill referred to in the *Legislation Review Digest* No. 11, which states:

The Act provides for the registration of births, deaths, marriages, changes of name and other events with the Registry of Births, Deaths and Marriages. Part 5 of the Act provides for changes of name by applying to the Registrar of Births, Deaths and Marriages. As stated in the Agreement in Principle Speech, in practice, a person applies for a change of name by completing a statutory declaration and providing evidence of their identity.

As other members have mentioned, that is not always the case; some people just assume names. We have all heard of court cases in which a person is known by two or three aliases. The bill will tighten that situation and make it harder for people to officially change their name. I continue the quote:

There are a number of reasons why a person may wish to register a change of name, for example a victim fleeing domestic violence.

That is a very important aspect. The bill acknowledges that there are genuine reasons why a person may wish to change their name—that is one of them. In other cases a child may not like the name given to them by their parents and it should be their right to change their name. I am sure everyone has met someone at sometime and queried why their parents had given them such a name. A person's name may not suit their married name. All of those provisions are still covered by the bill. I continue to read from the digest:

The bill amends the Act so that if a person was born in Australia his or her birth must be registered in New South Wales for him or her to be eligible to apply to the Registrar for a change of name ... As stated in the Agreement in Principle Speech, this amendment will enable an applicant's change of name to be directly linked to their birth record to minimise opportunity for fraud and abuse of the change of name system.

The member for Port Macquarie said that genealogists and people who search their family tree should have access to their family history. The restrictions in the bill will not include any change of name by marriage. New section 46A (5) states that the law enforcement agencies that may access the register include the New South Wales Police Force, the New South Wales Crime Commission, the police force of another State or the Commonwealth, or any other law enforcement agency or investigative agency as prescribed by the regulations. The agreement in principle states that proposed section 46A is intended to address the problem of those with a criminal history who avoid detection across borders by changing their name. It further states that a national best practice approach is being developed to prevent abuse of the change of name system. I support the bill.

Mr BARRY COLLIER (Miranda—Parliamentary Secretary) [1.10 p.m.], in reply: I thank the members for Epping, Smithfield, Clarence, Cabramatta, Port Stephens, Port Macquarie, Castle Hill, Baulkham Hills, Hornsby and Orange for their contributions to the debate. I note that the Opposition does not oppose the bill. It is important to indicate, particularly for Opposition members, that the New South Wales Police Force has had online access to information held on the births, deaths and marriages register for approximately seven years through a secure system called iASK. Police have had access to information regarding registered events such as a change of name, and associated documents such as application forms and copies of documents tendered as proof of identity. In this way people's privacy has been protected.

The system is stringently audited to ensure that it is not used inappropriately. Furthermore, the registry has a process in place to prevent criminals from wiping the slate clean. The registry must establish that a change of name is not being sought for a fraudulent or other improper purpose. The registry uses its powers of inquiry to investigate change of name applications that raise doubt or suspicion. The registry is not obliged to register a change of name, and it can and does refuse change of name applications. However, this bill will further ensure that the change of name process cannot be abused.

The member for Epping, the member for Port Stephens and other members raised the change of name by deed poll. I am advised that for approximately 10 years people have been unable to change their names by deed poll. They can do so only by a births, deaths and marriages registration. Further, amendments in 2007 to the Births, Deaths and Marriages Act prevent the creation of tombstone identities, referred to by the member for Epping as the "day of the jackal" change of name. Employers will be able to conduct a criminal records check through the police. Police databases are updated through their access to the change of name database. The members for Clarence, Castle Hill and Baulkham Hills raised retrospectivity and prior changes of name. On 17 July 2009 arrangements for data exchange were agreed between the Registrar of Births, Deaths and Marriages and the Commander, Operational Information Agency, New South Wales Police Force, to capture previous changes of name that had been recorded by the births, deaths and marriages registry.

This bill will allow a person to change name by registration only once in a 12-month period and only three times in a lifetime, unless there is a court order for a further change of name or the Registrar exercises discretion to allow a further change of name. The restrictions will not apply to any change of name by marriage, to persons in witness protection schemes or to officers in authorised agencies who are using assumed identities. It is proposed that these restrictions be implemented, as a person's name should not be changed on a whim or for frivolous reasons. A person's name goes to their identity and how they operate in the community. However, the Registrar will have the discretion to change a person's name despite the restrictions—for example, if a person needs to change their name for their own protection.

The member for Epping, the shadow Attorney General, referred to fraud offences. I am sure the member is well aware that the Crimes Act includes a number of fraud offences from embezzlement to make and use false instrument and sections 178BA and 178BB. However, before the Registrar can register a change of name he or she must be satisfied that the change of name is not for fraudulent purposes. In addition, the Government recently conducted public consultation on new fraud, forgery and identity crime offences, with a

recommendation of penalties up to 10 years. I understand a bill is currently being prepared. The member for Port Macquarie raised privacy protections. Currently, a memorandum of understanding between the New South Wales Police Force and the Registrar of Births, Deaths and Marriages enables designated police officers to directly access change of name information from the registry database. This will then allow police to update the computerised operational policing system [COPS] database. In his speech the member for Cabramatta suitably covered privacy provisions and the mechanisms built into the memorandum of understanding to protect an individual's privacy.

The Privacy Commissioner has endorsed the privacy measures established under the existing memorandum of understanding. Those who abuse access to the births, deaths and marriages database can be charged with a criminal offence under sections 58 or 60 of the Births, Deaths and Marriages Act 1995, which carries a maximum penalty of two years' imprisonment. The member for Baulkham Hills raised concerns about the deterrent effect of a penalty of two years' imprisonment. I advise the member that it is a penalty of two years for each offence. If an offence is committed twice, it attracts a penalty of two years for the first offence and two years for the second offence. Of course, that is in addition to any conviction for a fraud offence. The member for Port Stephens referred to land dealings. I advise the member to direct any inquiries to the Minister for Lands. The member for Port Macquarie referred to genealogists. I am advised that the bill does not affect any existing provisions relating to genealogy. The member, on behalf on his constituent, should raise his concerns with the Attorney General.

The member for Castle Hill referred to privacy laws. Currently the New South Wales Law Reform Commission is undertaking a review of New South Wales privacy laws. I point out that the New South Wales privacy laws apply only to the New South Wales public sector, not the private sector. The member referred to financial institutions and privacy laws. In those circumstances, under the Australian Constitution, Commonwealth privacy laws would apply, not State privacy laws. The member for Castle Hill asked why anyone would want a change of name more than once within a 13-month period. I believe he answered his own question when he referred to the witness protection program and domestic violence.

The member for Castle Hill also raised the change of name across borders and international relations. Change of name procedures across States and Territories have the potential to create gaps in Australia's identity security regime that can be exploited for criminal purposes. A recently implemented memorandum of understanding between the New South Wales Police Force and the New South Wales Registrar of Births, Deaths and Marriages will ensure that information is exchanged between the two agencies in relation to people with criminal histories who change their name. This will help stop criminals from wiping the slate clean by changing their name.

The bill will make legislative changes that will further ensure that the change of name system cannot be abused and that those who do abuse the system will face criminal penalties. However, this is ultimately a national issue, as members of the public can change their name in most States or come in contact with the criminal justice system in a different State to that in which they changed their name. In August this year the Attorney General recommended to the Standing Committee of Attorneys-General that a national best practice approach to changes of name be developed so that criminals cannot abuse the change of name system. It is anticipated that the national approach will be based on the New South Wales amendments. Without the cooperation of all jurisdictions in implementing best practice change of name procedures there will be gaps in the system, and no doubt criminals will attempt to take advantage of them.

The main purpose of the bill is to make it more difficult for criminals to use the change of name system to undermine the law enforcement effort and escape criminal histories. A person applying for a change of name will have to disclose whether he or she has a criminal record. Providing false information to the registrar in this regard will be an offence carrying a maximum penalty of 100 penalty units and/or two years' imprisonment. A person will be able to change their name by registration only once in a 12-month period and only three times in their lifetime, unless there is a court order for a further change of name or if the Registrar exercises discretion to allow a further change of name. The restrictions will not include any change of name by marriage and will not apply to persons in witness protection programs or to officers in authorised agencies who are using assumed identities.

The registrar will be able to require an applicant for a change of name to produce evidence to satisfy the Registrar that the Registrar should exercise his or her discretion to register the change of name. The bill amends the Birth, Deaths and Marriages Act so that if a person was born in Australia their birth must be registered in New South Wales before they can apply to the Registrar for a change of name. This provision will

also apply to children. However, the Registrar of Births, Deaths and Marriages has the discretion to allow a victim of domestic violence to change their name regardless of whether their birth is registered in New South Wales. As the member for Hornsby quite rightly said, no doubt victims of domestic violence will welcome this change.

The bill will ensure that if a person is born overseas they will only be able to change their name in New South Wales if they have resided in New South Wales for at least three consecutive years. However, the Registrar has the discretion to allow a change of name, for example, to assist in protecting the person. This provision will also apply to children. The Registrar will be able to provide change of name information to State, Territory and Commonwealth police forces and the New South Wales Crime Commission. Any other law enforcement or investigative agency may be prescribed also by regulation. The bill will strengthen change of name procedures so that criminals cannot abuse the change of name system to escape criminal records or undermine law enforcement efforts. I commend the bill to the House.

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

Motion agreed to.

Bill agreed to in principle

Passing of the Bill

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

[The Assistant-Speaker (Mr Grant McBride) left the chair at 1.22 p.m. The House resumed at 2.15 p.m.]

BUSINESS OF THE HOUSE

Notices of Motions

Government Business Notices of Motions (for Bills) given.

General Business Notices of Motions (for Bills) given.

BUSINESS OF THE HOUSE

Routine of Business

[During the giving of notices of motions to be accorded priority.]

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

QUESTION TIME

[Question time commenced at 2.21 p.m.]

BADGERYS CREEK PLANNING

Mr BARRY O'FARRELL: My question without notice is directed to the Premier. Does the Premier's backflip in supporting my proposed parliamentary inquiry into Badgerys Creek land dealings and planning decisions—an inquiry he labelled in this Chamber yesterday as stupid and absurd—simply not confirm his rank incompetence and weakness?

Mr NATHAN REES: I take these matters very seriously.

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

Mr NATHAN REES: Two organisations should be examining any of the issues that have been aired in recent days. In relation to the homicide of Mr McGurk, it is the New South Wales Police; in relation to any

extraneous matters, it is the Independent Commission Against Corruption. They are the two bodies that should be examining these issues. If the Leader of the Opposition has any reasonable grounds upon which to base an allegation of impropriety, he should not wait for the upper House inquiry. He has a legal obligation—

The SPEAKER: Order! The Leader of the Opposition will cease interjecting. He has asked his question and he will allow the Premier to answer it.

Mr NATHAN REES: If the Leader of the Opposition has anything of substance to support any allegation of wrongdoing—

The SPEAKER: Order! Members will cease interjecting.

Mr NATHAN REES: As I was saying, if the Leader of the Opposition has an allegation based on anything of substance, he is obliged to take it today to the police or to the Independent Commission Against Corruption. He should take it today.

ECONOMIC INITIATIVES

Mr NINOS KHOSHABA: My question is to the Premier. Will the Premier outline to the House what effect government initiatives are having on the economy?

The SPEAKER: Order! Members will cease interjecting.

Mr NATHAN REES: Last week I noted that over the past 14 years \$280 million had been put into running the New South Wales Opposition—there is precious little to show for that investment by the taxpayers of New South Wales! If it were a company, we would report it to the Australian Securities and Investment Commission. The Coalition is the Storm Financial of New South Wales politics—all talk and bluster, but ultimately bankrupt and devoid of substance. This week the Coalition flip-flopped on lotteries. Previously it flip-flopped on Civic Place. We have also seen the shameless abandonment of time-honoured Liberal principles in relation to energy policy and school reporting. Earlier this week it mentioned Californian-style recall elections; it has again outlined the 20 new wasteful health bureaucracies; in recent days it attempted to subvert the State Constitution; and on the weekend we saw its despicable attack on the Independent Commission Against Corruption and its wilful interference in a police murder investigation—none of which is surprising in the absence of any policy ideas.

The Leader of the Opposition's 25 years in politics have all been a bit of a waste of time—those long years working for John Howard and Bruce Baird, misleading taxpayers over the airport rail link and the demolition of Darnick railway station between Ivanhoe and Menindee. There were those lonely years at Liberal Party headquarters that culminated in defeat in 1995; those 14 years in Parliament, every second of them in Opposition; those seven years as the deputy leader, the perpetual bridesmaid to people such as Peter Principle, the member for Vacluse, and John Brogden; and those 2½ years as leader—all up, a bit of a damp squib.

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

Mr NATHAN REES: What have we had in 2½ years after a promise that there would be a rollout of policy after two years in Opposition? We have had nothing. We have had bluff and bluster—as Shakespeare might have said, sound and fury signifying nothing.

Mr Andrew Stoner: Tell us about the water shortage.

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

Mr NATHAN REES: You really want to talk about water policy, do you? This is the outfit that went to the last election with a water policy based on people in metropolitan Sydney using recycled sewage at a cost of a billion dollars more than our plan.

The SPEAKER: Order! Members will cease interjecting.

Mr NATHAN REES: That was the Coalition's plan. It did not hold water at the time; it does not hold water now.

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

Mr NATHAN REES: Each week that passes brings another positive indicator to the people of New South Wales. In April this year Mercer's 2009 Quality of Living Survey was released. This annual survey, conducted by one of the world's largest human resources companies, provides an objective and independent comparison of cities around the world. The survey was based on political, social, economic, environmental, safety and public service criteria. This year, out of 215 cities in the world ranked for quality of living, Sydney ranked tenth in the world. In the same survey Melbourne ranked eighteenth; Perth, twenty-first; Adelaide, thirtieth; and Brisbane, thirty-fourth. Last week New South Wales' triple-A credit rating was reaffirmed yet again by the international ratings agencies.

Yesterday the Minister for Education and Training reminded the House that the New South Wales school system leads the nation in literacy and numeracy rates for Australian students, to say nothing of the brilliant demonstration yesterday of the Opposition's wilful betrayal of core Liberal principles relating to transparency on school reporting. In addition, yesterday new statistics showed crime figures continuing to fall or remaining stable despite a growing population and difficult economic circumstances. Today we have the latest dispatch of good news, a number of good tidings for the people of the State. The first is the employment outlook. This is what the *Sydney Morning Herald* had to say:

Employment in New South Wales is expected to surge in the final quarter of this year with a new survey showing that employers are eager to hire more workers.

The Manpower Employment Outlook Survey of more than 2,300 employees in NSW shows hiring intentions for the next three months have improved, with the seasonally adjusted net employment outlook at seven per cent, up from minus two per cent last quarter.

Manpower Australia managing director Lincoln Crawley says ...

the State has bounced back with the best outlook of the year in the coming quarter.

The industries set to experience the biggest increase in employment are mining and construction, with 23 per cent of employers planning to increase hiring.

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

Mr NATHAN REES: That is the first set of good news. Second, new research by BankWest has identified seven regions across New South Wales that are shrugging off the economic downturn, which could lead New South Wales out of the global financial crisis. They are central western Sydney, the Illawarra, St George-Sutherland, the eastern suburbs, south-eastern Sydney, lower northern Sydney and inner Sydney. BankWest Retail Chief Executive Officer, Ian Caulfield, said the report provided further encouragement that the tide might be starting to turn. He said that it is encouraging that nearly half of New South Wales regions, including parts of Sydney, have come through the global downturn unscathed in respect of job losses. The New South Wales labour market has performed better than expected during the global financial crisis. That is another excellent bit of news.

Third, according to the National Australia Bank monthly business survey released yesterday, business confidence is at a six-year high. National Australia Bank's monthly business survey showed business confidence rose eight index points in August to 18 index points, the highest level since October 2003. Where was the rise most pronounced? Rising consumer sentiment was most pronounced in retail, finance, manufacturing and personal services—the various sectors of which New South Wales is the capital.

There is an additional set of good news. I am delighted to advise the House that New South Wales first home buyers have set another record, with more than \$139 million in first home buyer benefits handed out in August of this year. First home buyers continue to flock to Sydney's west, with the region dominating the top five suburbs for first home buyer benefits in New South Wales. Our benefits have helped 5,844 first home buyers achieve their dream in August this year alone—that is up 71 per cent on August last year. In fact, August of this year was the best performing August since those statistics were started in 2000. There is bluff and bluster from the Opposition while the Government helps young couples get the keys to their first home.

The attempt by the Leader of the Opposition to weave a narrative of doom and gloom for New South Wales is simply falling apart. The evidence says so. Every day Barry's billycart loses another wheel. As much as it pains him, New South Wales is surely and steadily improving. On every indicator we score a big tick: retail

sales, tick; job recruitment, tick; business confidence, tick; stimulus rollout, tick; triple-A rating, tick, literacy and numeracy, tick; on-time running, tick; emergency departments, tick; elective surgery, tick; crime rates, tick; first homebuyers, tick—

Mr Barry O'Farrell: Corruption, tick!

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

Mr NATHAN REES: If that is the best the Leader of the Opposition can do by way of interjection—

The SPEAKER: Order! Members will cease interjecting. The Premier has the call.

Mr NATHAN REES: If he wants to level those sorts of assertions, and the serious nature of them is manifest, he should take them to the ICAC today; he should not sing it out across the Chamber. Why are these essential services being delivered well? It is because we do not get distracted. In the face of global recession, not only have we had the triple-A reaffirmed, but also independently reassessed. Our education system is the best in Australia, our elective surgery and emergency department performance are the best in Australia, our law and order in 16 out of 17 categories are stable or falling, and on-time running for our trains is 95.4 per cent—an on-time running record for the last decade. Essential service delivery in New South Wales is in fundamentally good shape because of our plans, our investment and the serious nature with which we take that task, in stark contrast to the Opposition. It does not have any energy policy or water policy. It has what it claims to be a transport policy, but it does not have a single new train or bus. The evidence speaks for itself.

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

BADGERYS CREEK PLANNING

Mr ANDREW STONER: My question is directed to the Premier. If the Premier is called to the upper House inquiry into land dealings and planning decisions surrounding Badgerys Creek, will he ensure that he, his Ministers and their staff cooperate and appear before the inquiry?

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

Mr NATHAN REES: I repeat the answer that I gave to the first question: If you or any of your team has any reasonable grounds—

Mr Andrew Stoner: Point of order: My point of order relates to Standing Order 129. This is a completely different question to the first question. If the Premier repeats his first answer—which was irrelevant anyway—he will not answer this question.

The SPEAKER: Order! I will hear further from the Premier. The Premier will direct his comments through the Chair.

Mr NATHAN REES: I repeat: If the Leader of the Opposition, the Leader of The Nationals or any of their team—

Mr Andrew Stoner: Will you or won't you? Yes or no? Appear or not?

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

Mr NATHAN REES: I am not in the business of being bullied or intimidated across the Chamber by the Leader of The Nationals—ever.

Mr Andrew Stoner: Yes or no? Answer the question!

The SPEAKER: Order! I call the member for Epping to order. I call the Leader of The Nationals to order for the second time.

Mr NATHAN REES: As he well knows, it is a matter for the committee. Instead of parading his nonsense through the Chamber this afternoon, as soon as he leaves here he should take whatever allegation he has to the appropriate investigative authority.

Mr Barry O'Farrell: Point of order: The Leader of The Nationals asked a very simple question.

The SPEAKER: Order! The Leader of the Opposition will state his point of order.

Mr Barry O'Farrell: It is about an inquiry that your mob upstairs supported. Are you going to appear?

The SPEAKER: Order! The Leader of the Opposition will resume his seat. Has the Premier concluded his answer?

Mr NATHAN REES: Yes.

BUSHFIRE HAZARD REDUCTION

Mr FRANK TERENZINI: My question is addressed to the Minister for Climate Change and the Environment. Will the Minister update the House on measures to prepare our national parks for the bushfire season?

Ms CARMEL TEBBUTT: I am sure many members will have heard that the temperature is predicted to hit 30 degrees on the weekend, a prelude to what we know will be a very hot and dry summer.

The SPEAKER: Order! Opposition members will resume their seats. Opposition members will cease interjecting. I call the member for Upper Hunter to order.

Ms CARMEL TEBBUTT: The aftermath of the devastating bushfires in Victoria in February have demonstrated to us the impact that wildfires can have on communities. The Victorians are still rebuilding their lives after those dreadful fires and our thoughts continue to be with them at this tough time. We are looking closely at the interim findings of the royal commission and will look closely at the ultimate findings of the royal commission to see what lessons we can learn from what happened in Victoria earlier this year. We know that climate change will mean that bushfires will only get worse. Size, duration and intensity have increased over the last decade and will continue to increase with climate change. Government research suggests that very high to extreme fire risk days may become 10 per cent to 50 per cent more frequent in all State regions.

Just this morning I addressed the Climate Change Council and spoke to a climate expert, who indicated that if we had experienced in January the anomalous weather events we experienced in August we could have 10 days of temperatures above 42 degrees in Sydney. We can only think with trepidation what that would mean for the health of our community and for the bushfire risk. The unseasonably hot and dry conditions we experienced in August led the Minister for Emergency Services to announce that the start of the official fire season has been brought forward in some areas. We know that we need to prepare, that we are facing increased fire risk into the future and that we are facing a very hot and dry summer. The National Parks and Wildlife Service has a strong record in fire management. We are getting ready for the fire season.

The SPEAKER: Order! There is too much audible conversation in the Chamber. Members who wish to conduct private conversations will do so outside the Chamber.

Ms CARMEL TEBBUTT: We have already methodically changed our firefighting practices over time to better meet the threat of fire that our landscape and climate present. For example, we have clear principles in place that ensure hazard reduction exercises are aimed at safeguarding human life and property. We have very brave and very well trained firefighters. All bushfire-prone land, including our parks and reserves, are covered by bushfire risk management plans and bushfire operational plans. Every park and reserve, more than 6.7 million hectares of land—6.7 million hectares of national park we would not have if members opposite were ever on the Treasury benches but the Government has given that clear commitment to our environmental heritage and conservation—is covered by a more detailed reserve fire management strategy, which guides hazard reduction and fire suppression activities.

As a result, in the past five years we have seen that the National Parks and Wildlife Service has hazard reduced more than 200,000 hectares of the park estate. In 2008-09 we have seen the largest ever hazard reduction burning program in five years and the second largest since records began. We all know that hazard reduction is not a panacea, and we all know that hazard reduction can only be done safely under certain weather conditions. However, the National Parks and Wildlife Service is taking advantage of every safe opportunity that is presented to undertake hazard reduction. In 2008-09 a total of 168 hazard reduction burns were completed,

covering almost 60,000 hectares. This was approximately 60 per cent of the hazard reduction burning carried out by all fire agencies across New South Wales. As I said, we are well prepared for the coming summer. Since 1 July 2009 the National Parks and Wildlife Service has conducted more than 70 burns, treating almost 20,000 hectares of national park estate.

The Government is providing an additional \$30 million over three years to assist the National Parks and Wildlife Service to continue to enhance its fire preparedness efforts. The funding is being used for additional fire training, fire trail maintenance and fire equipment replacement, the purchase of personal safety equipment, and a complete upgrade of our radio communication system. I can advise the House that today more than 60 National Parks and Wildlife Service Sydney region firefighters are undergoing a series of exercises at Middle Head to hone their skills, and close to 50 officers are attending similar training in the Blue Mountains. Across New South Wales, there will be 40 exercises similar to what is happening today to make sure that our National Parks and Wildlife Service firefighters are ready for the summer.

I take this opportunity to place on the record the congratulations of the Government and the House to five National Parks and Wildlife Service firefighters for their efforts in helping to battle huge blazes in British Columbia recently. Returning home yesterday, these officers were part of a contingent of 30 specialists from across Australia and New Zealand. The firefighters have spent five weeks giving their weary Canadian counterparts some respite from battling massive fires in that country. On behalf of the House, I congratulate and pay tribute to these firefighters on their professionalism and commitment, and welcome them home. There is no doubt that these exchanges of firefighters across countries pose risks to our firefighters. However, they also provide a tremendous opportunity for our firefighters to do good in other countries and to learn from their firefighting experiences in other countries. It is a great exchange of goodwill as well. We welcome the firefighters home.

The National Parks and Wildlife Service will continue its strong efforts to make sure we are ready for what we know will be a tough summer. The Government will ensure we put in place the necessary measures to address and mitigate climate change into the future, knowing the impact that climate change will have on the intensity, frequency and impact of fires in New South Wales.

PLANNING TRANSPARENCY AND ACCOUNTABILITY

Mr BRAD HAZZARD: I direct my question to the Minister for Planning. Given that Graham Richardson told the media in February this year that he only needs to meet with the Minister's senior departmental planning officers to "get done what I need to get done", what actions has the Minister taken to satisfy herself as to the appropriateness of those meetings, having in mind the need to address transparency and accountability issues as identified by the Independent Commission Against Corruption in 2007?

Ms KRISTINA KENEALLY: Opposition members talk about transparency and accountability, but there are no guarantees from the Opposition. It is a tall order—indeed, it is completely out of line—for them to try to draw lines between donations and developers. It has been Labor in government that has passed political donation disclosure laws. It has been Labor in government that has started a monthly public update of a number of major project determinations, and the jobs and the economic investment that those projects created. It has been Labor in government that has introduced the Planning Assessment Commission and delegated the Minister's authority to determine applications where a reportable political donation had been made.

It has been Labor in government that has created the joint regional planning panels to depoliticise planning decisions. And it has been Labor in government—the Rees Government—that has been working in partnership with local government, industry and the community to build Australia's best planning system, where decisions are efficient, where they are transparent, where they provide certainty, and where they are made at the most appropriate level. Let me put this bluntly. Until recently the Opposition had promised that it would revoke part 3A of the Environmental Planning and Assessment Act, which allows the State Government to assess and determine major job-creating projects.

The SPEAKER: Order! Members will cease interjecting.

Ms KRISTINA KENEALLY: Earlier this month the Newcastle *Herald* reported that the Opposition's planning spokesperson, the member for Wakehurst, had said that this part of the Act would not be abolished but instead would be "reviewed". While the outcome is marginally more sensible, what motivated this policy backflip? When did the Opposition make this policy change? Why did the Opposition decide to make it? Was it a developer donor to the Liberal Party who motivated it?

Mr Brad Hazzard: Point of order: The question related to Graham Richardson saying he can "get done what I need to get done" and asked whether the Minister has addressed the accountability and transparency issues. Standing Order 129 requires the Minister to address the question.

The SPEAKER: Order! The member for Wakehurst will resume his seat. That is not a point of order. The answer is relevant to the question. The Minister has the call.

Ms KRISTINA KENEALLY: I note that this is the only question about planning the Opposition has asked me in 12 months. After 12 months in the portfolio, this is the first time Opposition members have even bothered to ask me a question about planning. I hope the Legislative Council inquiry asks me to appear before it. I hope they call me and ask me to give evidence about a man I have never heard of, about people I have never met with, and about land the Government has not rezoned.

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

Ms KRISTINA KENEALLY: If the Opposition had taken—

Mr Barry O'Farrell: Point of order: My point of order relates to Standing Order 129. The question was about Graham Richardson, his dealings with the Minister's department, and probity checks. We have so far heard about part 3A, and we have so far heard about the upper House inquiry, but we do not have an answer to the question. What is it about Graham Richardson that the Minister will not address?

The SPEAKER: Order! The Leader of the Opposition will resume his seat. I will hear further from the Minister.

Ms KRISTINA KENEALLY: If Opposition members had undertaken even the simplest form of fact checking, they would know that the status of this land has not changed in years. The fact is that the Leader of the Opposition rushed out in breathless excitement when he heard some unsubstantiated allegations to declare that land had been rezoned and thus an inquiry was needed. This week the Leader of the Opposition told 2BL Radio: "Land in western Sydney was rezoned, resulting in a massive multimillion-dollar windfall for one of the developers."

The SPEAKER: Order! Government members will cease interjecting.

Ms KRISTINA KENEALLY: In fact, this land was not rezoned. Indeed, the Government declined to declare this land a State-significant site—

Mr Brad Hazzard: Point of order: The Minister has now been speaking for five minutes and twenty seconds. She has not mentioned the name Graham Richardson or spoken about what she has done to address accountability issues. I refer to Standing Order 129.

The SPEAKER: Order! The member for Wakehurst will resume his seat. I remind the Minister of the question before the House.

Ms KRISTINA KENEALLY: It has taken the Opposition 12 months to ask me a question on planning, so I suppose I am allowed to speak for five minutes. This land has not been rezoned, and it has not been declared State significant. In fact, the Government declined to so declare it. If you are sloppy in small things, you will be sloppy in big things too. Had the Leader of the Opposition simply checked the status of the land, he would not have made the sloppy mistake of committing himself to an upper House inquiry into land in which the status had not changed in years.

The SPEAKER: Order! Members will cease interjecting.

Ms KRISTINA KENEALLY: It is unfortunate that the taxpayers of New South Wales will have to pay for Mr O'Farrell's sloppiness. Inquiries such as this cost time and money. Nonetheless, while the Government thinks it is ridiculous to have an inquiry into land that has not changed its status in years, I hope the upper House inquiry asks me to give evidence.

CBD METRO RAIL

Mrs KARYN PALUZZANO: I address my question to the Minister for Transport. Will the Minister update the House on the latest developments in Sydney's step change to metro rail?

Mr DAVID CAMPBELL: I thank the member for her question and her interest in this project, which she understands will lead to improvements in public transport in western Sydney when it is completed. The city's crucial public transport step change to metro rail reached another milestone today with the release of the environmental assessment for the Sydney metro stage one—Central to Rozelle. This project will become the spine of our metro network, with stage two being the metro line from Central to Parramatta and Westmead. This project is set to revolutionise public transport in Sydney. It will become the clean, green, efficient way to get around Sydney. To ride stage one of the Sydney metro, it will take about one minute to get from Central to Town Hall, about five minutes between Central and Barangaroo-Wynyard and about ten minutes to get from Central to Rozelle.

Ms Gladys Berejiklian: Eighty-seven seconds in and on cue.

Mr DAVID CAMPBELL: The member should just listen; she will get an answer to that inane interjection in a minute.

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

Mr DAVID CAMPBELL: Delivering the Sydney metro network will involve the biggest construction job in Sydney's central business district since the building of the Harbour Bridge, and its significance is parallel to that great icon.

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

Mr DAVID CAMPBELL: This is a landmark project, which will change the face of Sydney and boost the way we are seen internationally. The number of vehicles crossing the Harbour Bridge when it first opened was about five per cent of the total number of vehicles it carries today but the Government of the day had the vision to create the capacity to look forward and see the vast benefit it would deliver. The vision of the Labor Government today to build the Sydney metro network shines a spotlight on the lack of vision or policy on the other side of the House and the irrelevance of Barry O'Farrell with his stunt to try to cancel the metro contract. From his irrelevance, we turn to the major business groups in this city. The same groups that are turning their back on Barry O'Farrell's Liberal Party because it does not know what it stands for anymore, as pointed out by Peter Debnam. Today's metro announcement has had ringing endorsement.

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

Mr DAVID CAMPBELL: Many members on this side of the House will remember Patricia Forsyth, who is now the Executive Director of the Sydney Chamber of Commerce. She used to be a Liberal member of the upper House who got rolled by the religious right—what involvement did those opposite have in that? She has gone on to other things. Today, the Executive Director of the Sydney Chamber of Commerce said:

The CBD Metro is a vital piece of infrastructure that will be absolutely critical to support the planned development of Barangaroo ... and the thousands of people who will work and live in the area.

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

Mr DAVID CAMPBELL: On past performance that is the last interjection we will get from the member for Willoughby. She has not got the ticker. She is one of Barry's acolytes.

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

Mr DAVID CAMPBELL: The member for Willoughby has no ticker to go on with that. Executive Director of the Property Council Ken Morrison had this to say:

This is a welcome step which will give investors ... property owners... and the general community certainty about the project ... and the station environments ...

In a world economy that has been in difficulty that sense of certainty for investors is something people welcome. Picking up from the Premier's theme earlier, I would say that is a pretty big tick. Ken Morrison went on to say:

We recognise that the metro is not intended to be a stand alone project ... but the enabler of a wider metro rail network for Sydney.

That is where the benefits for the balance of the city and the broader metropolitan area come in. It seems that everyone gets it, but Barry.

The SPEAKER: Order! Members will cease interjecting, including the Leader of the Opposition.

Mr DAVID CAMPBELL: Executive Director of Infrastructure Partnerships Australia Brendan Lyon had this to say:

Today's announcement highlights some of the transformational effects a well designed well delivered and well operated metro could have on Sydney's CBD and other areas.

Let us not forget the confidence shown in Sydney metro by the national and international companies who have expressed interest in contracts for this project. This support drives home the irrelevance of the Opposition Leader. The release of the environmental assessment follows extensive community feedback and reveals all of the options for the six stations and various construction locations. Importantly, the environmental assessment sets out new options for the Pyrmont station, where there has been a great deal of community consultation about retaining the look and feel of the place along Union Street. I am pleased to say that after hearing the community's concerns a new alternative plan for the Pyrmont metro station has been put forward that would see the Union Street terraces retained, including the facades and the bulk of the buildings. Only a section at the rear of the terraces would be removed to house essential station services. At Rozelle metro station, the altered plan would create a public plaza, which will showcase two of the local churches and provide walkways underneath Victoria Road. Following significant consultation and leadership by the member for Balmain, those changes have been put in place.

The environmental assessment goes on display today and more community information days will be held in September to give people the chance to learn more about the project and to ask questions of Sydney metro staff. Barry O'Farrell has no ideas for public transport and has a fixation with misleading the public over an exciting project that will benefit the city. For every year of its construction, the CBD metro will create work for around 2,000 people in New South Wales. Every year, 2,000 families will directly benefit from this visionary project. That is 2,000 jobs every year for five years that Barry O'Farrell and his Liberal colleagues would not be creating if they were sitting on this side of the House. I hear an interjection about the north-west—

[Interruption]

In terms of the south-west, members should refer to Budget Paper No. 4 to see the money allocated for the commencement of work on stage one in this financial year. Again, the Opposition is spreading misleading truths. Let us go back to the north-west. I read in the *Hills News* of 8 September 2009, at page 3:

"Local Liberal MPs are under very serious threat from the hard, extreme religious right who want to control everything—

Mr Greg Smith: Point of order—

Mr DAVID CAMPBELL: Come in Spinner!

The SPEAKER: Order! The Minister will resume his seat. Government members will come to order. What is the member for Epping's point of order?

Mr Greg Smith: I refer to Standing Order 129. This is not relevant to the question that was asked.

The SPEAKER: Order! I ask the Minister to commence concluding his answer.

Mr DAVID CAMPBELL: I shall. I think it is a case of guilty conscience on the part of the member for Epping. I was picking up on an interjection. I continue to quote the *Hills News*:

... extreme religious right who want to control everything, and several are underestimating the extent of the personal threat," a Liberal party insider told the *News*.

That same person went on to say that Mr Richardson is being white-anted by the Christian right. That is the interest of the Liberal Party in the north-west. While it is getting on with those shenanigans, the Government is getting on with completing the planning, letting the contract and constructing the major piece of public transport infrastructure that this city demands and needs. As is often said in this place: builders over here and wreckers over there!

CATHERINE HILL BAY DEVELOPMENT

Mr ROB STOKES: I direct my question to the Minister for Planning. Given that the Minister for Planning had legal advice regarding Catherine Hill Bay and that former planning Minister Frank Sartor told *Stateline* last week that the legal advice on ministerial bias was "leaked just before the case, influenced the whole case, and was leaked from Government sources", was it the Minister or her staff who leaked this information?

The SPEAKER: Order! The House will come to order. A serious question has been asked. The Minister has the call. I call the member for Terrigal to order. I call the member for Terrigal to order for the second time. I call the member for Terrigal to order for the third time.

Ms KRISTINA KENEALLY: The answer is no.

DESALINATION PLANT CONSTRUCTION

Mr BARRY COLLIER: I address my question without notice to the Minister for Water. Can the Minister update the House on the construction of Sydney's wind-powered desalination plant?

Mr PHILLIP COSTA: I thank the member for Miranda for his constructive question. He has shown considerable interest in this project since its inception. We live in the driest inhabited continent on Earth. Water, our most vital natural resource, is at risk. The New South Wales Government's package of dams, recycling, desalination and water efficiency will secure Sydney's drinking supply in the face of climate change, uncertain rainfall and the continuing threat of drought. As the member for Miranda mentioned in his question, Sydney's desalination plant will be 100 per cent wind powered and 100 per cent independent of rainfall. I am pleased to inform the House that this massive infrastructure project is on time and on budget. It is due to come on line this summer. This project, once complete, will be the largest individual piece of infrastructure in the Sydney water supply system since Warragamba Dam.

It is sobering to remember that in 2007 our dam levels were at just 33.9 per cent. Had we not pumped water from the Shoalhaven, they would have been just 13 per cent by February 2007. I am pleased to say that this week our dam levels are at 59.2 per cent, dropping 1.3 per cent last month after an unusually warm August. With the El Nino expected to make its return, I take great confidence from knowing that in summer this year we will have a water source that is independent of rainfall. In the construction of the desalination plant we have achieved engineering feats and world firsts. We have set a record for the largest concrete pours in the country. To date, more than 75,000 cubic metres of concrete has been poured and more than 11,500 tonnes of reinforcing steel has been installed. Just last month I announced the completion of the Botany Bay crossing—a significant engineering achievement and a project within a project in its own right.

The SPEAKER: Order! Members will cease interjecting. The Minister will be heard in silence.

Mr PHILLIP COSTA: This is history. In a world first, a purpose-built lay barge completed the seven kilometres twin pipe laying operation across Botany Bay. I have been told that never before in the world have twin pipes of that size and length been laid beneath a waterway. We are builders, and smart ones at that! On Monday, I witnessed the last above-ground pipe being laid in the construction of the 18-kilometre desalination pipeline—another big first. Each piece of pipe is five metres in length, made of best Australian steel pipe, 1.8 metres in diameter and weighs five tonnes. We put the last one in place last Monday.

[Interruption]

I was there with the outfit. I follow all my projects personally.

The SPEAKER: Order! Opposition members will not encourage the Minister.

Mr PHILLIP COSTA: Do not encourage me. Once complete, the pipeline will connect to the city water tunnel at Erskineville where it will feed into the supply network to around 1.5 million homes south of Sydney Harbour. Despite the size and significance of this project, I am pleased to say that none of the 18 kilometres of pipeline travels directly beneath a residential house. That is evidence of smart planning by the Government and our world leading technology and design. Not only do these feats of engineering secure water supplies for the future, they are evidence of the competence and skill of our workers to deliver the largest water

project in this State for the past 50 years. This project is on time and on budget at \$1.9 billion, with 18 kilometres of pipeline. The project has employed more than 4,000 people—1,000 people on any one day. It is supporting jobs during an economic downturn. Infrastructure projects, such as the desalination plant, that are delivered on time and on budget keep our economy strong.

The desalination plant will be driven by 67 wind turbines, which are in the process of completion. Every drop we save is a drop we keep in the dams. We will recycle 70 billion litres of water a year, about 12 per cent of our total water supply. We have fantastic water efficiency systems across the network. Our WaterWise program continues to provide commonsense rules across our entire network. On this side of the House we have dams, recycling, desalination and water efficiency. The Government recycles water; the Opposition recycles old ideas. If you Google the Liberal-Nationals water policy, what do you get? You get a total drought—not a word, no water plan for the driest continent on Earth.

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

Mr PHILLIP COSTA: It is a great project. Everyone should be there when we open it.

COASTAL EROSION

Mr PETER BESSELING: My question is directed to the Deputy Premier, and Minister for Climate Change and the Environment. Can the Minister inform the House on funding measures that will support local government in dealing with the effects of coastal erosion in areas such as Lake Cathie?

Ms CARMEL TEBBUTT: Coastal erosion is causing concern at certain hotspots up and down the coast, and Lake Cathie is one of those areas. This issue has a long history and, no doubt, coastal erosion will be exacerbated by climate change. Climate change will result in sea level rises, which will have an impact on coastal erosion. I am very aware that coastal councils are struggling with this issue and trying to find solutions. This issue excites a great deal of passionate debate in coastal communities. Under the New South Wales Coastal Policy local councils are responsible for managing coastal hazards, such as erosion. The Government provides technical and financial assistance through the Coastal Management Program to councils to prepare coastal zone management plans with their local communities.

Just last month the Government announced some \$13 million in funding to help local councils carry out coastal and flood risk management projects. This funding, including funding for planning and on-the-ground works, will help them plan and adapt to the increasing reality of climate change and coastal erosion issues. In relation to Lake Cathie, the Government has provided a grant of \$50,000, which is matched by Port Macquarie-Hastings Council—

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

Ms CARMEL TEBBUTT: —to prepare the Lake Cathie Coastal Zone Management Plan, which will address the immediate and longer-term coastal hazards. As I understand it, the Lake Cathie Coastline Management Study is currently on exhibition, and will be for another few weeks. I understand that there have been a lot of submissions, a lot of media comment about it and a lot of debate. I certainly urge the council, as it completes a public consultation process, to consider all the submissions that it has received before making a decision and moving on to the next step, which is the preparation of the Coastal Zone Management Plan.

There is no doubt that under the coastal policy local councils are responsible for managing coastal hazards. Climate change is going to see this become an increasing problem, so there is also a need for all levels of government—local, State and Federal—to work together on this issue. We have released our draft sea-level rise statement that outlines the support that the Government will provide to coastal communities and councils in adapting to sea-level rise. But one thing that has become very apparent to me as I have dealt with issues relating to a number of coastal areas, not just Lake Cathie, is that there seems to be a lack of clarity about the various responsibilities that the different levels of government have. Currently the Government is looking at what further action it might take to clarify the roles and responsibilities of the respective levels of government when it comes to coastal erosion and sea-level rise issues, because there is no doubt they will be continuing issues into the future. I am confident that the further action the Government will take will further assist councils up and down the coast, including the Port Macquarie-Hastings Council and the issues at Lake Cathie.

SYDNEY WORLD MASTERS GAMES 2009

Mr NICK LALICH: My question is addressed to the Minister for Tourism. Will the Minister update the House on the fabulous Sydney 2009 World Masters Games and what the Government is doing to secure more major events for Sydney and New South Wales?

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

Mr John Williams: Is this the second reading speech?

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

Ms JODI McKAY: I am certainly aware of the time, and I am happy to provide the member with a copy of my speech when I have finished. But I want to tell members as well. The Government supports an outstanding array of festivals and events. We have had the Vivid and Vivacity festivals, Top Gear Live—there were three or four performances here—and the recent Repco car rally on the North Coast. But by far the most significant event that Sydney will see this year is the Sydney 2009 World Masters Games. This event will be held between 10 and 18 October, and tomorrow will be one month before competition begins.

Sydney is on track to host the largest-ever World Masters Games. We have 28,000 competitor registrations, and we are expecting 10,000 people from 106 different countries. For instance, there will be 3,000 Canadian visitors—six times the number of Canadians who attended the 2002 World Masters Games in Melbourne—more than 1,500 New Zealanders, and more than 500 people from Russia. About 8,000 people from interstate and 10,000 people from regional New South Wales and Sydney will compete at the World Masters Games. Research tells us that a typical World Masters Games competitor will stay before and after the games, which is why we are so keen to support this event and why we are so pleased that the Sydney World Masters Games will be the most significant ever. October is a mammoth month for Sydney because we have the Crave festival and Breakfast on the Bridge.

[Interruption]

I thank members opposite for their enthusiasm. We have had about 30,000 registrations for Breakfast on the Bridge so far—it is a little over a week since we opened the registrations.

Mr Barry O'Farrell: It is more than that.

Ms JODI McKAY: There are 30,000 people, but they can bring up to five people with them.

The SPEAKER: Order! Members will come to order.

Ms JODI McKAY: I am happy to discuss the mathematics of 30,000 people times five with the Leader of the Opposition after question time. As part of Crave we will have the Seven Bridges Walk, Sydney Harbour Island Hopping, the World's Funniest Island, the Sydney International Food Festival and the Darling Harbour Fiesta. For sports fans like the member for the Upper Hunter, we have the NRL Grand Final and the Socceroos versus the Netherlands match. There is a lot going on in Sydney in October. The Government is putting up about \$8.5 million for the World Masters Games, and we expect that to bring some \$50 million in economic activity. That is why we are so keen to support these events. The majority of the 28 different sporting events will be held in western Sydney—in Penrith, Blacktown and Bankstown.

What the World Masters Games and many of these events highlight is our capacity to host them. As I said before, tourism is worth some \$27 billion to the State's economy. Tourism supports about 158,000 jobs in this State and that is why the Labor Government is working very hard to actively pursue these big-name events for New South Wales. Sydney is the premier international destination in New South Wales and we have a very proud history of hosting these events. That is why the Labor Government will be introducing major events legislation that aims to streamline the organisation process. We want to ensure that in years to come we are very ready to put into place the services and the changes necessary to facilitate holding these major events more efficiently across Sydney. Previously we have enacted special legislation for the Olympics, World Youth Day and the World Masters Games, but this legislation will save time, it will attract continued investment in New South Wales and it will send a very loud, clear message that this Government is serious about staging major events.

Question time concluded at 3.16 p.m.

PETITIONS

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

Drink Container Deposit Levy

Petition requesting a container deposit levy be introduced to reduce litter and increase recycling rates of drink containers, received from **Ms Clover Moore**.

National Parks Tourism Developments

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

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**.

Cudal War Memorial Health Service

Petition requesting that all services be reinstated at the Cudal Community War Memorial Health Service, received from **Mr Russell Turner**.

Binalong District Transport

Petition requesting an alternative form of public transport to replace the Fearnies Wagga Wagga to Canberra bus service, received **Ms Katrina Hodgkinson**.

Bus Service 311

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

Pymont Metro Station

Petition opposing the Metro proposal for a Pymont station at Union Square and requesting community consultation for a suitable site, received from **Ms Clover Moore**.

Banksia Railway Station Staffing

Petition requesting the retention of staff at Banksia railway station, received from **Mr Frank Sartor**.

Darlinghurst Planning

Petition requesting that the 2006 master plan for the Garvan St Vincent's research precinct be adhered to and that the plan incorporate the heritage classified terrace, received from **Ms Clover Moore**.

Pet Shops

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

Hastings Local Government Area Fluoridation

Petition opposing the fluoridation of the water supply in the Hastings local government area, received from **Mr Peter Besseling**.

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

Oltan Mine Proposal

Petition opposing the use of open cut mining methods within the City of Lake Macquarie, received from **Mr Greg Piper**.

Wallsend Aged Care Facility

Petition opposing the sale of the Wallsend Aged Care Facility, received from **Ms Sonia Hornery**.

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

Mr ANDREW STONER (Oxley—Leader of The Nationals) [3.17 p.m.]: I move:

That the General Business Notice of Motion (General Notice) given by me this day [Rural Fire Service] have precedence on Thursday 10 September 2009.

Mr JOHN AQUILINA (Riverstone—Parliamentary Secretary) [3.18 p.m.]: The Government agrees with the reordering of general business in the name of the Leader of The Nationals.

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

Motion agreed to.

BUSINESS OF THE HOUSE**Postponement of Business**

General Business Notice of Motion (for Bills) [Duties Amendment (First Home Owners Exemption) Bill 2009], given this day, postponed on motion by Mr Peter Besseling.

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

Ms MARIE ANDREWS (Gosford) [3.20 p.m.]: My motion should be accorded priority because the people of New South Wales deserve to be informed about what the State Government is doing to counteract the economic downturn. The record expenditure of \$62.9 million by the Rees Government on infrastructure is unparalleled in this State. Coupled with that is the Rudd Labor Government's record investment in schools and social housing. The State Government is proud to be cooperating to ensure that this investment is rolled out on time as part of the Rudd Government's Nation Building and Jobs Plan. What are members opposite doing about promoting this record expenditure by both the State and Federal Labor governments? Sadly, they have taken a very negative stance and instead of talking it up they are consistently talking down our State. I urge members on both sides of the House to accord this motion priority.

Planning Transparency and Accountability

Mr BRAD HAZZARD (Wakehurst) [3.22 p.m.]: The one thing we know after question time today and the revelations of the past few days is that something is certainly rotten in the State of New South Wales. This Government, which is supposed to be leading us and providing an open, transparent and equitable planning and infrastructure system, is causing that stench. The Minister for Planning and the Premier did a flip-flop today. Until today, the Premier has totally opposed the establishment of an upper House inquiry into the Badgerys Creek land and related matters. He said that the proposition was utterly absurd. Then the Government suddenly decided in the upper House that it would not oppose the Opposition's motion to establish the inquiry.

Today, the Minister for Planning has also suddenly decided that she is prepared to give evidence at a hearing of the inquiry that the Government and the Premier have been criticising. Why has the Premier failed to indicate that he will appear? He had the opportunity today to make it clear that he would appear, but he did not. However, his leadership rival, who has played a pivotal role in the planning regime that is now causing such a huge stench, has decided to appear. What is her purpose? We will see, but it looks like a clear leadership challenge. Members opposite should listen carefully.

Mr Frank Terenzini: Point of order: I have been looking forward to hearing the arguments of the member for Wakehurst about why his motion should be accorded priority. I am eager for him to start presenting them.

The SPEAKER: Order! As members are aware, I extend a degree of latitude during these debates.

Mr BRAD HAZZARD: As I said, there is something rotten in the State of New South Wales. It does not matter whether it is Premier Rees or alternative Premier Keneally, or any of the other hopefuls, the stench will continue because this Government is determined to retain a planning system that has allowed people like Graham Richardson to have access to the most senior levels of government. The media asked Graham Richardson about his lobbying activities and he responded that he does not need to see certain Ministers because

he can do what he needs to get done and it is reasonable and he causes no strife. Why? It is because he has access to certain levels in the department. There is another reason. Sitting on the bench opposite we normally have the two alternative Ministers for Planning: Minister Tripodi and Minister Keneally. Interestingly, Graham Richardson indicated in the media article that he had no problem getting to see Minister Tripodi. Each of the groups that he represents is interested in development in Sydney. What does that tell us? Minister Tripodi appears to be the puppeteer for Minister Keneally.

Mr Frank Terenzini: Point of order: I am loath to interrupt the member for Wakehurst in full flight, but he has not mentioned the word "priority". In addition, members wishing to cast aspersions on other members should do so by way of substantive motion.

The SPEAKER: Order! While I extend a degree of latitude during these debates, I ask the member for Wakehurst to state why his motion should be accorded priority.

Mr BRAD HAZZARD: In 2007, the Independent Commission Against Corruption identified that the planning system in New South Wales needed transparency and accountability. The Minister has had the opportunity to address those issues but she has not done so. We also have a planning system that does not encourage development in New South Wales. Major companies are moving from this State to Queensland and Victoria. They are telling the Opposition that they want the planning system overhauled, but the State Labor Government is refusing to do so. The Opposition will overhaul it and it will deliver the transparency and accountability that this Government is refusing to deliver because it wants to perpetuate the dollars-for-deals stench that surrounds it.

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

The House divided.

Ayes, 45

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

Noes, 37

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

Pairs

Mr Furolo	Ms Berejiklian
Mr Gibson	Mr Fraser
Mr Harris	Mr Page

Question resolved in the affirmative.

INFRASTRUCTURE INVESTMENT**Motion Accorded Priority**

Ms MARIE ANDREWS (Gosford) [3.34 p.m.]: I move:

That this House:

- (1) congratulates the New South Wales Government on its \$62.9 billion infrastructure program aimed at stimulating the economy and supporting jobs;
- (2) welcomes the Federal Government's investment in schools and social housing across the State as part of its Nation Building and Jobs Plan; and
- (3) condemns the New South Wales Opposition for continuing to talk down the State.

The Rees Government is working in partnership with the Rudd Labor Government to invest in our future to support jobs today and to give our students and communities the facilities they need to succeed in the future. There is no higher priority for this Government than creating, supporting and protecting jobs for working families in New South Wales. That is why we are supporting up to 160,000 jobs a year through a record \$62.9 billion building program over the next four years. This is the largest infrastructure investment in New South Wales' history and the largest infrastructure program of any State government anywhere in Australia.

The Commonwealth Government's economic stimulus package represents a historic investment in schools and public housing in New South Wales, an investment worth some \$7.5 billion that will be delivered before 2011. The New South Wales Government has stepped up to the challenge of implementing this program of works, making sure that every eligible school and public housing project has its works delivered in a timely, efficient, and cost-effective manner. It is a pleasure to update the House about the progress the New South Wales Government has made delivering economic stimulus, supporting jobs and building our communities. In particular, I address the education stimulus package known as Building the Education Revolution. For New South Wales public schools, it means undertaking around 4,736 projects worth \$3.4 billion plus our own capital program, which is worth around \$1.8 billion over the next two financial years.

To put that in perspective, the Olympics cost the New South Wales Government around \$2 billion and we had seven years in which to do it. Our capital expenditure on schools is just over \$5 billion in two years—a massive task. Of the 4,736 public school Building the Education Revolution projects in New South Wales, around half involve relatively minor repairs and upgrades. But the other half are full-scale buildings. That is why in April the Premier announced the names of the successful firms given the job of managing the delivery of the largest component of Building the Education Revolution. I am referring here to the Primary Schools for the 21st Century program, which ensures that our primary schools receive new or upgraded halls, libraries and classrooms. In New South Wales, the Commonwealth has approved 3,494 projects in 2,521 schools worth approximately \$4.3 billion.

In government schools, the Commonwealth has approved 2,433 projects in 1,784 schools worth approximately \$3 billion. Since April, 69 projects in government schools have kicked off. New projects are starting at a rate of around 20 a week, and that is just the beginning. By mid summer when the program is in full swing we expect to see around 90 projects commencing each week. The school projects already underway will support an estimated 8,222 jobs on average per day over the life of the project. This is truly an amazing program. It will touch every community in New South Wales and its end products—halls, libraries and classrooms—will stand as monuments to the work we are doing long after the last hall is completed, the last library is connected to the Internet and the last desks are installed in the final classroom block.

In the Hunter and Central Coast region a total of 11 schools have had their construction commence, including Irrawang Public School, Heaton Public School, Greta Public School, Belair Public School, Cessnock

Public School, Tacoma Public School, Aberdeen Public School, Denman Public School, Glendale East Public School, Wyong Grove Public School and Mount Hutton Public School. Much of this work is going to local building companies and subcontractors. Stevens Constructions from Erina on the Central Coast has found work on Building the Education Revolution projects. Other companies that have found work in the Hunter and Central Coast area include Conaghan Civil from Adamstown; Pinnacle Bricklaying from Merewether; Kingston, Bolkm and Brisland—all construction companies—from Newcastle; Tubular Steel Maitland Pty Ltd from Maitland; Bowsmark Excavation and Hunter Ready Mix Concrete both from Thornton; SMB Engineering from Raymond Terrace; Falcon Concrete from Salamander Bay; New Tilt Constructions from Salt Ash; HL Mullane & Son Pty Ltd from Sandgate; Nelson Bay Electrical from Taylors Beach; and Grine Bros from Warners Bay.

The New South Wales Opposition should be uncomfortable at this point because we know they have consistently refused to back the Federal education stimulus package. We all know where the Liberal and Nationals parties stand on this record investment in New South Wales schools; they oppose it. In an interview on the ABC's *Insiders* program on Sunday Malcolm Turnbull suggested he supported all of the Building the Education Revolution projects but would spend only \$12 billion less on schools. He said:

Well Barry, we haven't voted against any projects, what we voted against was the overall package.

We put up an alternative which would have involved spending money on schools, but not so much, spending \$3 billion instead of \$14 billion ...

The Liberal-Nationals alternatives simply do not add up, which means schools and communities around New South Wales would miss out on vital economic stimulus. Joe Hockey has described the \$14.7 billion investment in schools, halls, libraries and classrooms as bad spending and ridiculous. This is what Joe Hockey said on the *Sunrise* program on 13 February:

We think the package is way too big. It's wasting too much money on bad spending ...

Well let me tell you, we wouldn't be spending \$14 billion on school halls. I mean that is a phenomenal amount of money. \$14 billion ... That is just ridiculous.

It is about time the New South Wales Opposition let the people of New South Wales know where they stand? Do they stand with their mates in Canberra? Do they support Malcolm Turnbull's view that a total of \$3 billion was better spent on every school in Australia? The Liberal Party of Australia, the self-proclaimed party of small business, sits here in this Parliament and refuses to back small business owners, who are benefiting from the stimulus spending that is keeping their companies afloat and keeping workers in jobs. We are proud that New South Wales is leading the way in the delivery of the stimulus package in our schools and in public housing.

Mr JONATHAN O'DEA (Davidson) [3.41 p.m.]: It is needless to point out that the Government is yet again congratulating itself rather than actually delivering for the people of New South Wales. The \$62.9 billion spend over four years, double counting Federal infrastructure money, is welcome. However, it is being misspent, misallocated and mismanaged. Some \$2 billion has been wasted on a desalination plant—waste initiated by a Premier who all too often goes off half-cocked, too early. The Government promised to commence work on a \$2 billion plant for infrastructure only if water levels reached a level of 30 per cent. The Government pre-empted its decision, jumped too early and is wasting \$2 billion. At the same time, new technology has been developed that would have enabled delivery of higher technology at lower cost when we need to commence the plant.

There are two areas of this motion where the Government conveniently has decided not to talk about infrastructure. One is health and the other is rail and transport. In both those areas the Government has demonstrated that it put substandard infrastructure plans to the Federal Government and billions of dollars in potential infrastructure spend were wasted. It has been pointed out a number of times in this Parliament how billions of dollars could have been going into the New South Wales health system and transport system if the Government were competent and could have developed decent plans to put before its own Federal colleagues. But it could not.

The President of the Australian Medical Association, Dr Brian Morton, states that health falls into last place in infrastructure spending across New South Wales. Only \$2.4 billion has been allocated to health, which "literally places the health of the State's growing and ageing population as the last priority", he states. As the shadow Minister for Health has pointed out, this year's budget has cut infrastructure spending in the area of health. It was cut from \$839.5 million to \$603 million, a cut of \$236.5 million or some 28.2 per cent.

In the area of transport, the shadow Minister for Transport, Gladys Berejiklian, has pointed out a long list of axed rail lines, of promised infrastructure that was never delivered. I would like to know how much of the \$62.9 billion will actually be delivered. Many rail links have been announced but not delivered by this Government—the Bondi Beach rail link, the high-speed rail link to Newcastle and the Central Coast, the Hurstville to Strathfield link, the high-speed rail link from Sutherland to Wollongong, the Parramatta to Epping link only half delivered, the CBD new harbour crossing link, the north-west heavy rail link, the north-west metro link, the Penrith fast rail link and the south-west heavy rail link. Ten in all, and of those, half a rail promise delivered.

This Government does not deliver infrastructure. In contrast, I am very pleased to see the confirmed commitment from the New South Wales Opposition to build the Sydney north-west and south-west rail links and to commence that in a serious fashion within its first term of office. We will pay for it in part by axing the \$5 billion Sydney Metro project, which is inappropriate. With respect to education and the Rudd Government's investment in schools, it is interesting that the New South Wales Government is trying to argue Federal matters. I can understand that it wants to rely on Federal initiatives when it has so little happening itself, but at a State level the Federal Government money, \$140 million of it, is being spent in management fees for the State Government to deliver certain projects on behalf of the Federal Government. That is \$140 million that is not going to schools.

I will give some examples of where money is being misspent and misdirected. The neediest high schools in Australia have been denied funding to build science laboratories and language centres after the Federal Government ignored its own guidelines and redirected \$200 million of that money to help pay for a blowout in primary school building programs. That is the first example. The second example is that the Australian Electoral Commission actually embarrassed Kevin Rudd by ruling that more than 8,000 signs being erected outside publicly funded school building projects were political advertisements. The third example of misdirected and misspent money, which has been highlighted in Federal Parliament, is Evesham State School in Queensland, with one enrolled student, which is apparently receiving \$250,000 funding for a new library and the principal of the school is adamant that she had not even applied for the funding.

The fourth example is closer to home at Abbotsford. A group of parents is considering boycotting the Rudd Government school building program and sending back its \$2.5 million grant in protest at being forced to knock down a building of four classrooms to build a new block of four classrooms. That is in today's *Australian*. This is extraordinary and I would be very interested to follow that up. That is another example of misspent allocation of money.

I shall touch on housing very briefly. The Opposition welcomes investment in housing in this State. However, in my electorate of Davidson they are actually selling public housing. That is now confirmed after initially being denied. The motion, which suggests housing is being increased across the State, is incorrect. Public housing is being sold in my electorate. I have had to fight for public housing tenants to make sure that they are looked after. This Government does discriminate. This Government does not spend wisely; it wastes money. The infrastructure spend cannot be trusted in the hands of this State Labor Government.

Ms LYLEA McMAHON (Shellharbour—Parliamentary Secretary) [3.48 p.m.]: I want to draw to the House's attention some misinformation in relation to the contribution of the member for Davidson. This budget delivered a record \$15.1 billion for the Health portfolio. Just in the electorate of Shellharbour we have seen a new 20-bed mental health rehabilitation unit worth \$6.9 million delivered and opened in February 2009, a new child and adolescent day unit at Shellharbour hospital worth \$3.2 million delivered and opened in February 2009, as well as additional beds and a midwifery and family care unit delivered and opened in February 2009. We have also seen the expansion of midwifery clinics at Shellharbour hospital, which are now open and running. An additional home birthing program has been delivered, with the first baby born in Bulli in July 2009. These are all things that are happening in the Health portfolio in the electorate of Shellharbour that have been delivered and opened. So it is clear that Opposition members have spoken without knowing the facts of the matter—not that that is a surprise to anyone in this Chamber.

The Howard Government was no friend of the homeless and no friend of social housing. Howard ripped billions out of social housing across the country and around \$1 billion from New South Wales alone. But how times have changed. Early this year Prime Minister Kevin Rudd announced the Nation Building Economic Stimulus Plan, which included around \$2 billion for new social housing development in New South Wales. At last, in the Rudd Government we have a Federal Government willing to partner with New South Wales—willing

to partner with us to unlock the human potential of our homeless and our State's disadvantaged. It is an unprecedented opportunity but an opportunity that has also presented challenges—a challenge to make the most of this opportunity for our State's most needy and a challenge to get the billions of dollars working for the people of New South Wales: into the economy supporting jobs and supporting business.

I am very happy to report that the New South Wales Government has risen to these challenges: we have got on with the job. We have delivered new homes and we have delivered jobs. In just over six months since the announcement of the Housing Stimulus Plan, New South Wales is leading Australia, getting on with construction. New South Wales was the first State to get our stage one projects ticked off by the Commonwealth. New South Wales was the first State to complete a home under the Housing Stimulus Plan, and New South Wales was the first State to get stage two construction underway. Not only will a massive one-third of Australia's Housing Stimulus Plan projects happen here in New South Wales, but we are currently responsible for a massive 60 per cent of construction work under the stimulus program nationally. That means two things. New South Wales is rolling out the biggest program in the country and we are getting on with it quicker than any other State. We are creating jobs for local tradies, backing local business, and stimulating the economy when it is needed most, which is now.

The Housing Stimulus Plan in New South Wales will support some 14,000 jobs over two years through the construction of around 6,000 additional homes. And we must not forget that on top of this impressive Federal commitment the New South Wales Government is investing an extra \$1 billion to build and acquire 3,000 additional homes for our most needy residents—that is, a total of around 9,000 homes. In fact, nearly all of these projects are under construction now. To date, 98 per cent of our stage one homes are underway, 52 different building firms have won work under the stimulus plan, and many more builders will benefit. These include small family businesses, who have been some of the first to get work. And the \$130 million for social housing maintenance from the Federal Government will work together with the New South Wales Government's own funding and the record \$200 million the Premier brought forward late last year for maintenance to further stimulate the economy. I am proud to be part of a Labor Government that has well and truly seized this opportunity and is delivering for the State of New South Wales.

Mr GEOFF PROVEST (Tweed) [3.53 p.m.]: I support my colleague the member for Davidson in opposing this ludicrous motion. This Government is very big on congratulating the Rudd Government regarding various issues. The problem is that the Government really has nothing on which to congratulate itself. After all, we are talking about 14 years of neglect by this Government. The Federal Government is fixing problems in this State caused by the existence of the New South Wales Labor Government. The Premier is possibly sincere when he boasts that Labor has given New South Wales the best hospital system in the world. I invite the Premier to come to the Tweed and have a look at the damage his inept policies and financial mismanagement have done to the Tweed hospital, despite the outstanding work of our dedicated nurses, doctors and support staff.

The problem this tired old Labor Government has is that it has started to believe its own spin. The motion claims that the Government deserves the credit for a \$62.9 billion program to support jobs. How much of that money is from this Government and how much of it is from Federal taxpayers, and their children and grandchildren? The Government claims it is supporting jobs. What about the 400 front-line jobs it is axing from North Coast hospitals, including around 30 from the desperately overstretched Tweed hospital? What about the jobs the Government is axing in just about every government department in regional New South Wales? The Government is closing agricultural research stations, it is axing Roads and Traffic Authority staff, it is axing court staff, and it axed the Murwillumbah to Casino rail line. The only way the Pacific Highway gets upgraded is when the Federal Government has to foot 100 per cent of the bill. That was evident with the Tugun bypass, which was funded by Queensland taxpayers and the Federal Government. Not one cent was provided by the New South Wales Government, and the then Treasurer had the hide to send Anna Bligh a land tax bill for \$250,000.

The Government claims it is stimulating the economy. What kind of stimulus does the economy get when the Government jacks up electricity prices for pensioners by more than 20 per cent overnight? Pensioners' electricity bills have been increased as at this quarter. How is the economy in the Tweed electorate stimulated, when the Government suddenly increases petrol prices by more than 8¢ per litre? The third part of this complacent, arrogant and time-wasting motion is the most laughable of the lot. The claim is that the Coalition is giving New South Wales a bad name. New South Wales is becoming a laughing stock not because of the hard work of the constructive Liberal-Nationals Opposition.

The reason the Government is a joke is because of the constant scandals, backstabbing, corruption, and God knows what next from Labor Ministers. I will not go through them all, from the one who is in jail for child sex and drug offences, to the Ministers and ex-Ministers who are suing their own Government. I am particularly unhappy that we do not have a full-time health Minister. The Tweed hospital crisis desperately needs the Government's attention, but of the last three health Ministers two have quit Parliament since the election and the other resigned last week because of yet another sex scandal. So Government members should not wander into this place and lecture us about talking down New South Wales. Government members cannot simply spend the next 20 months slapping each other on the back, telling each other how lucky New South Wales voters are to have them in power. Again I say to the Government: Stop believing your own ludicrous spin, do some hard work for a change, and get New South Wales back on track.

I have been in this place for a little over two years, and this is the silliest and most time-wasting motion we have yet seen from the incompetent rabble opposite. The people in the streets, whether they are here in Sydney or in the Tweed, are asking for support. They are sick of the Government's spin. The trouble with this inept Labor Government is that it is starting to believe its own spin. I sit on the back bench and I look across to the Government front and back benches. There is a look of doom and gloom on the faces of Government members. Every morning when I pick up the *Daily Telegraph* or the *Sydney Morning Herald* I shake my head in disbelief, because the previous day I thought I had seen everything but it simply gets worse and worse. The people who are suffering are not those opposite but the hardworking mums and dads across the State of New South Wales. I will waste no more of the Legislative Assembly's time discussing the motion, except to remind the House once again that I am 100 per cent for the Tweed.

Ms MARIE ANDREWS (Gosford) [3.58 p.m.], in reply: I could hardly believe my ears, and I am sure my colleagues on this side of the House could hardly believe what they heard either, when this motion was described as ludicrous. Will the members opposite be brave enough to go out to their electorates and tell the people who voted for them that they opposed this motion? There is nothing ludicrous about spending \$62.9 billion on an infrastructure program over four years, which will support 160,000 jobs per year throughout the State, including the electorates of the members opposite. Joe Hockey, who sits on the Opposition front bench in Canberra, is refusing to attend functions marking new government-funded school stimulus projects in his electorate. One thing I will say for Joe Hockey is that he is not a hypocrite. Having opposed the stimulus package in Federal Parliament Joe could hardly go out and take credit for what the Rudd and Rees governments are doing for our schools. As the member for Shellharbour pointed out, in the 2009-10 State budget a record \$15.1 billion is being spent on health in New South Wales; not the paltry amount that the member opposite mentioned.

As for building rail lines, the Epping to Chatswood rail line has been opened. If it were not for a State Labor government there would be no rail line to Olympic Park. There was no plan by the former Coalition Government in the lead-up to the Olympics for the establishment of a railhead to Homebush Bay, which would cater for the people who attended the Sydney Olympics in 2000. The record of successive State Labor governments in building rail lines and supporting public transport in this State is second to none. The Opposition is to be condemned for being continually negative about this State. It should be talking up the good things that are occurring here. It does not matter whether the funding is coming from a State or Federal Labor government, it is keeping the economy of both this nation and this State buoyant at a time when the world is facing the worst economic downturn since the Great Depression of the 1930s.

If Australia did not have interventionist governments such as the Rees Government in New South Wales and the Rudd Government in Canberra, thousands of people would be out of jobs and the construction industry would be at a standstill. We are very fortunate to have State and Federal Labor governments that are prepared to take interventionist action and keep the economy buoyant by keeping the construction industry going. New South Wales is also fortunate to have a government prepared to spend money in the area of community housing for people who would otherwise not be able to keep a roof over their heads. I agree that in Australia we should not have people who are homeless or people who say they have not got a roof over their heads. I am very pleased to see the Rudd and Rees governments investing so much money in community housing. I commend the motion to the House.

Question—That the motion be agreed to—put.

The House divided.

Ayes, 47

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

Noes, 37

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

Pairs

Mr Daley	Ms Berejiklian
Mr Furolo	Mr Page
Mr Gibson	Mr R. W. Turner

Question resolved in the affirmative.

Motion agreed to.

The SPEAKER: Order! Debate on the motion accorded priority having concluded, the House will now proceed to Government business.

NSW LOTTERIES (AUTHORISED TRANSACTION) BILL 2009**Consideration in Detail****Consideration of the Legislative Council amendments.****Schedule of amendments referred to in message of 8 September 2009**

No. 1 Page 29, schedule 5.1 [5]. Insert after line 8:

- (3) This section does not limit the matters that the Minister can consider in determining suitability to be concerned in or associated with the management and operation of a lottery business and does not limit the matters that the Minister can consider in deciding whether to grant an operator licence to the applicant.

No. 2 Page 31, schedule 5.1 [5], line 24. Omit "30 years". Insert instead "40 years".

No. 3 Page 46, schedule 5.1 [19]. Insert after line 30:

Division 1 Preliminary

No. 4 Page 47, schedule 5.1 [19]. Insert after line 13:

- (2) Other expressions used in this Part that are defined in the Transaction Act have the same meaning as in that Act.

No. 5 Page 47, schedule 5.1 [19]. Insert before line 14:

Division 2 General provisions

No. 6 Page 49, schedule 5.1. Insert after line 3:

Division 3 Protections for existing lotteries agents

39 Definitions

In this Division:

agency agreement means an agreement that provides for a person to act as agent for a licensee in connection with the conduct of a public lottery by the licensee.

agency protection period means the period of 5 years commencing on the transaction completion date.

existing retail agency agreement means a retail agency agreement under which a retail agent was an agent of NSW Lotteries immediately before the commencement of the new licensing arrangements (and includes such an agreement as in force after that commencement).

existing retail agent means an agent under an existing retail agency agreement.

retail agency agreement means an agency agreement that provides for the agent to sell lottery tickets only at:

- (a) the premises of a newsagency, convenience store or other retail business, or
- (b) any premises prescribed (or of a kind prescribed) by the regulations for the purposes of this definition.

termination for convenience provision means a provision of an existing retail agency agreement that permits the termination of the agreement by giving a period of notice of intention to terminate and does not require any ground or cause for the termination.

7-Eleven agency agreement means an agency agreement entered into with a person as a franchisee of 7-Eleven Stores Pty Limited.

40 Protections for existing agency agreements

(1) The following protections apply to an existing retail agency agreement:

- (a) the agreement continues in force after the commencement of the new licensing arrangements on the same terms and conditions as applied to the agreement immediately before the commencement of the new licensing arrangements,
- (b) the terms and conditions of the agreement cannot be varied during the agency protection period except by agreement between the licensee and the agent,
- (c) if the agreement is due to expire before the end of the agency protection period, the term of the agreement is extended until the end of that period unless the agent and the licensee otherwise agree,
- (d) the agreement cannot be terminated by the licensee pursuant to a termination for convenience provision of the agreement during the agency protection period unless the agent consents to the termination,
- (e) the terms and conditions of the agreement cannot be varied without the agreement of the agent during the 6 months after the end of the agency protection period unless the licensee has given the agent at least 6 months' notice of the proposed variation,
- (f) the agreement cannot be terminated by the licensee pursuant to a termination for convenience provision of the agreement during the 6 months after the end of the agency protection period unless the licensee has given the agent at least 6 months' notice of intention to terminate.

Note. Notice of intention to terminate can be given during the agency protection period (but so that the 6-month period of notice expires after the end of the agency protection period). Paragraph (f) does not extend to an agency agreement that is extended under paragraph (c) (because the agreement expires at the end of the agency protection period).

- (2) A restriction imposed by this clause on the right of a licensee to terminate an agency agreement pursuant to a termination for convenience provision of the agreement does not affect any right of the agent to terminate pursuant to such a provision or any right of the licensee or agent to terminate for a breach of the agreement.
- (3) This clause does not prevent the termination of an agency agreement pursuant to a direction of the Minister under section 21H (Withdrawal of approval or appointment of agent under conditions of licence) or 60 (Minister may direct licensee to terminate certain agency arrangements).

41 Restrictions on new agency agreements

- (1) A licensee must not enter into an agency agreement before the end of the agency protection period that authorises the agent to sell lottery tickets at the premises of a retail business unless the premises are the premises of a newsagency, convenience store or a business that is (or that is of a kind) prescribed by the regulations.
- (2) A licensee must not enter into an agency agreement during the 6 months after the end of the agency protection period that authorises the agent to sell lottery tickets at the premises of a retail business unless:
 - (a) the premises are the premises of a newsagency, convenience store or a business that is (or that is of a kind) prescribed by the regulations, or
 - (b) the licensee has given each agent under an existing retail agency agreement not less than 6 months' notice in writing of the licensee's intention to enter into the agency agreement, specifying the general nature of the business carried on by the proposed agent.
- (3) The Minister is not to recommend the making of a regulation for the purposes of this clause unless satisfied that the business or kind of business to be prescribed is of a similar nature to a business that is an agent under an existing retail agency agreement.
- (4) A failure to comply with this clause does not affect the validity of an agency agreement entered into in contravention of this clause but such a failure constitutes a failure to comply with a provision of this Act for the purposes of section 21B (Grounds for disciplinary action against licensee).

42 Restriction on increase in number of retail agents

- (1) A licensee must not enter into an agency agreement during the agency protection period if the effect of entering into the agreement would be to increase the number of retail agency agreements in force at the time by more than 100 over the allowable limit.
- (2) The *allowable limit* is the sum of:
 - (a) the number of retail agency agreements that are in force immediately before the transaction completion date, and
 - (b) the number of 7-Eleven agency agreements entered into on or after the transaction completion date.
- (3) A failure to comply with this clause does not affect the validity of an agency agreement entered into in contravention of this clause but such a failure constitutes a failure to comply with a provision of this Act for the purposes of section 21B (Grounds for disciplinary action against licensee).

43 New full-service agency agreements—restriction on more favourable terms

- (1) A licensee must not enter into a full-service agency agreement during the agency protection period on terms that are substantially more favourable to the agent than the terms of any existing agency agreement that is a full-service agency agreement unless the licensee has offered to enter into an agency agreement on those terms with each agent of the licensee under an existing agency agreement that is a full-service agency agreement.
- (2) A licensee must publicly advertise opportunities for interested parties to enter into full-service agency agreements with the licensee during the agency protection period.
- (3) A *full-service agency agreement* is an agency agreement that authorises the agent to sell entries in all the public lotteries that the licensee is authorised to conduct.
- (4) This clause does not apply to or in respect of a 7-Eleven agency agreement entered into during the agency protection period.
- (5) A failure to comply with this clause does not affect the validity of an agency agreement entered into in contravention of this clause but such a failure constitutes a failure to comply with a provision of this Act for the purposes of section 21B (Grounds for disciplinary action against licensee).

44 Variation of fit-out obligations of existing agents

- (1) A requirement imposed by or under an existing retail agency agreement with respect to shop fit-out and shop signage (such as a requirement of the Retail Image Program of NSW Lotteries) cannot be varied during the agency protection period without the consent in writing of the agent.
- (2) An existing retail agency agreement cannot be varied during the agency protection period to impose any additional obligation on the agent to pay for any new terminal to be used for selling entries in a public lottery except with the consent in writing of the agent.
- (3) This clause does not apply to or in respect of a 7-Eleven agency agreement.

45 Funds transfer obligations of existing agents

A licensee is not entitled to vary the frequency with which an existing retail agent is required during the agency protection period to forward to the licensee money received by the agent from the sale of entries in a public lottery, unless the agent consents in writing to the variation.

46 Training and operational support for existing agents

During the agency protection period, the licensee under an existing retail agency agreement must provide to the agent (at no cost to the agent) training and operational support of the kind and of a standard provided to existing retail agents by NSW Lotteries before the transaction completion date.

47 Minister's approval of changes to commission rates

- (1) The Minister must not approve any change to an existing agent commission rate (or any rule or amendment of a rule that would have the effect of changing an existing agent commission rate) during the agency protection period without first consulting on the proposed change with the persons or bodies that the Minister considers represent the views and interests of existing retail agents.
- (2) An *existing agent commission rate* is the rate at which commission is payable to an agent under an existing retail agency agreement in respect of sales of entries in a public lottery conducted by the licensee.

48 Establishment of industry forum

- (1) The Minister is to establish an industry forum to facilitate discussion between representatives of participants in the public lotteries industry about issues that are of interest or concern to them.
- (2) The Minister is to convene the forum at least twice each year.
- (3) Issues to be discussed at the forum include (but are not limited to) product innovation, product distribution, agent commission rates and the effectiveness or otherwise of harm minimisation initiatives.

49 Inconsistency with existing agreements

- (1) A term or condition of an existing retail agency agreement is of no effect to the extent (if any) that is inconsistent with the operation of this Division.
- (2) Each existing retail agency agreement is deemed to include a provision that the parties agree to give effect to the provisions of this Division.

50 Keno not affected

This Division does not apply to an agency agreement to the extent that it provides for a person to act as agent in respect of games of keno.

Mr JOHN AQUILINA (Riverstone—Parliamentary Secretary) [4.13 p.m.], on behalf of Mr Joseph Tripodi: I move:

That the House agree to the Legislative Council amendments.

Mr GEORGE SOURIS (Upper Hunter) [4.13 p.m.]: I wish to make a few remarks about the NSW Lotteries (Authorised Transaction) Bill 2009. I am delighted to indicate that the Opposition does not oppose these amendments, as was reflected in another place last night when the Government introduced a number of amendments to its bill as a result of consultation with the Opposition over the winter recess, particularly in the past couple of weeks. The principal item of concern for the Opposition was that there be a measure of protection for the 1,400 agents throughout New South Wales who represent NSW Lotteries products. These agents can be

credited as the heroes of the development of NSW Lotteries into an extensive and well-run business. I would suggest that the network of agents that represents NSW Lotteries products is the greatest asset of this business, which the Government seeks to privatise.

I want to speak about the protection of these family-owned small businesses, which are located in local communities throughout every suburb and country town in New South Wales. They are almost a local meeting place. Most people in any town or suburb would either enter the local agency to do business or pass it by on a daily basis. As a result, these small business proprietors and their employees are in daily and regular contact with a great cross-section and proportion of the local community. The Opposition also seeks to support and protect the employees of these businesses. Some 16 per cent of an agent's business is NSW Lotteries products. That is enough to support and maintain one employee in each of those 1,400 businesses. In some cases, the proportion is higher and of greater volume, which means it may support more than one employee. For the employees of NSW Lotteries and the network of agents throughout New South Wales, the issue of protection is important.

When the bill was first introduced in this place in June, it did not incorporate any protection for the agency sector. The Coalition intended to carry its very strong opposition to the bill in another place. The Government realised that the bill would not pass through the other place because the Coalition together with some crossbench members had a majority to defeat the bill. Only then did the Government accept that consultation and negotiation were necessary. The Legislative Council rose over winter until the ringing of a long bell, which did not occur until Tuesday, 1 September 2009. The Government consulted with the Opposition and third parties, particularly the two newsagent associations that represent part of that sector. Although the majority of NSW Lotteries agents are newsagencies, they are also corner stores, convenience stores, 7-Eleven stores, neighbourhood supermarkets and other businesses. In my hometown of Singleton a pharmacy sells Lotto products. The Government realised it had to enter into meaningful negotiations.

The Opposition's unarguable proposition was that a minimum of five years' protection would be necessary to achieve our support. Many agents rent premises in major shopping centres with leases of five years or more. In many cases, they have multiples of five-year renewals. Very few would have leases of less than five years, unless an agent owned the premises or was very close to the expiration of a lease. That itself presents a further problem. For example, if an agent's tenancy had only one year to go the agent would have to take the risk that they might summarily be removed as an agent and lose their agency for the lotteries product. The Government eventually proposed a three-year protection period, so they might lose the lotteries business after only three years—two years short of the expiration of their lease. So five years with a six-month notice period—which means, effectively, 5½ years—was the position the Opposition took and continued to argue until the Government ultimately agreed to that protection.

A number of other protections were incorporated in the discussions. In particular, the Opposition held a strong view that it would be reluctant to support legislation that carried with it an unseen regulation, an unseen contract of sale and an unseen new licence agreement for the franchise, which was to go for 30 years. The Government agreed to that proposition. Indeed, it incorporated matters that were going to be part of a regulation into the legislation. There will now not be a regulation and the contract of sale will be governed by the legislation. That is of significant comfort to the Opposition. It was worried about handing it over *carte blanche* to the Government, especially given that there might have been a surprise packet in regulation.

The Coalition has always supported, in principle, the prospect of privatisation of NSW Lotteries. That has not altered over the years. What has become more important is the issue of protection for the various small businesses who are the agents. Our commitment to that protection and the negotiations that have been undertaken have resulted in a significant level of support. In fact, yesterday I was pleased to see that media releases were issued from both sides of the philosophical spectrum on this topic—the New South Wales Business Chamber as well as both newsagents associations—in support of the outcome and the amendments that were ultimately made in the other place and that are now before this House. The Opposition will support the amendments.

As I said, the agents are the principal assets of this business. Any prospective purchaser should be cognisant of the fact that a network of 1,400 agencies in every suburb and every country town represents the strength of the business. Given the five-year period—or a 5½-year period with notice—we believe the strength of this asset will become more obvious and will be reinforced to the prospective purchaser as it plans for development of its business in the period subsequent to the 5½ years.

The Government also sought agreement from the Opposition to extend the franchise period from 30 to 40 years. The Government believed that this was necessary to compensate for the possible loss of value that extending protection to the agents for 5½ years would have. However, it is unclear. I do not believe that the value of the business has been materially affected either by the protection or by the extension of the franchise period. The licence fee will be maintained—and I reinforce that point. Following yesterday's public announcements, a number of people—some of them newsagents—continue not to understand that the licence fee, that is, the tax that is charged by the Government as a percentage of the turnover of the product, will not be affected. The licence fee has yielded between \$300 million and \$400 million per annum for New South Wales. I repeat: The licence fee will not be affected; it will continue to be raised, provided the business remains well run and well supported, as it is currently.

In addition, as a result of the efficient operation of NSW Lotteries and the profitability of that structure it will now no longer yield a dividend to the people of New South Wales. It will no longer be a New South Wales government entity. The owner would be subject to the Income Tax Act. It will no longer provide a dividend, which has been in the order of \$50 million. That will be forgone for the sale proceeds, not the taxation or the licence revenue of \$300 million to \$400 million. I reinforce that fact because I know there is a considerable level of misunderstanding throughout the community.

I also thank the agencies and third parties with whom I have had negotiations over this period of time including, in particular, both the newsagents associations. I also thank the Leader of the Opposition, the shadow Treasurer, the shadow Minister for Finance in another place, and my staff member Mr Jinesh Patel. I also commend the Treasurer for the way in which he has undertaken the discussions, the negotiations and the final agreement, which was completed early yesterday morning. Ultimately, it led to the amendment of the Government's bill and its return to this House in its amended state. We support the amendments.

Mr MIKE BAIRD (Manly) [4.26 p.m.]: I support the comments of the shadow Minister for Gaming and Racing and I endorse everything he has said about the negotiations he has undertaken in relation to the NSW Lotteries (Authorised Transaction) Bill 2009. I make two quick points that should not be lost on this House. We have always argued that this was a good policy. There are often claims from the other side about policy not emanating from this side of the House. This is a policy that we have run with for a considerable period and it was in place before the lead-up to the last election. We continued to advocate it and we are pleased that the Government has undertaken the process. We understand that NSW Lotteries is a competitive business and that there is a huge amount of investment and energy required. It makes sense to transfer this business to experts and to use the income that we receive for other purposes—perhaps the infrastructure that we have heard the Treasurer talk about.

We want transparency in relation to where this money goes. It should not form part of any slush fund. It is a once-in-a-generation opportunity to get a substantial amount of money—we may get \$600 million plus—and those funds should be utilised carefully. The initial bill excluded small businesses. It is one of our key policy positions that we want New South Wales to be the first place in which to do business, and small business plays a critical role in that context. All newsagents across this State are integral to local economies and we are very proud to stand up for them. We acknowledge, as the shadow Minister for Gaming and Racing acknowledged, that the Treasurer listened to our concerns and our negotiations on behalf of small businesses, the newsagents. As it now stands, the bill is a sensible proposition and one we are very happy to support.

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

Motion agreed to.

Legislative Council amendments agreed to.

Message sent to the Legislative Council advising it of the resolution.

CRIMES (APPEAL AND REVIEW) AMENDMENT (DOUBLE JEOPARDY) BILL 2009

Agreement in Principle

Debate resumed from 3 September 2009.

Mr GREG SMITH (Epping) [4.30 p.m.]: I lead for the Coalition on the Crimes (Appeal and Review) Amendment (Double Jeopardy) Bill 2009, which amends the Crimes (Appeal and Review) Act 2001 to enable a person acquitted of a serious offence in a retrial under the exception to the rule against double jeopardy to be

again retried if the acquittal was tainted because of an administration of justice offence and to provide that an appeal court must not dismiss a prosecution appeal against a sentence or impose a less severe sentence than it would otherwise consider appropriate because of any element of double jeopardy involved in the respondent being sentenced again. On 13 April 2007 the Council of Australian Governments agreed that jurisdictions should implement the recommendations of the Double Jeopardy Law Reform COAG Working Group. More than two years later, and after a period of inaction by the Government, on 25 June 2009 I gave notice of a private member's bill to amend the Crimes (Sentencing Procedure) Act 1999 to remove the principle of double jeopardy in sentencing. Following my notice of motion, on 11 July the Government gave notice that it would introduce this legislation.

There is widespread concern in the community about sentencing, and particularly about what appears to be inadequate sentencing. The concept of double jeopardy in sentencing—that is, preventing appeal courts from imposing appropriate sentences—exists in New South Wales but has been abolished in Western Australia and recently in Victoria. Double jeopardy in sentencing is based on the theory that if a person is to be resentenced after a Crown appeal is upheld, he should receive a discounted sentence due to the supposed trauma of being subjected to the sentencing process for a second time. No such principle applies when a person is convicted of the same offence a second time after a retrial, nor does it apply if an appeal court, applying *R v Parker* principle, increases the sentence of a person who has appealed himself or herself against a sentence for being excessive, although that is a rare event.

In the important decision of *R v Tait and Bartley* decided in 1979 by the Federal Court, the concept of double jeopardy as applied in appeals was said to be confined to situations in which the Crown's presentation of the case either contributed to the sentencing error or led the defendant to refrain from dealing with some aspect of the case which might have rebutted the suggested error. The court regarded it as unjust to a defendant whose freedom is in jeopardy for a second time to consider on appeal a case made against him on a new basis—a basis that he might have successfully challenged had the case against him been fully presented before the sentencing court.

One highly publicised case in which a totally inadequate sentence was imposed involved Ronald King. The member for Clarence correctly raised the considerable public concern about King's receiving a two-year suspended sentence for the offence of having sexual intercourse with a child under the age of 10 years; namely, four years. In sentencing, District Court Judge Geraghty took into account three other offences on a Form 1; namely, an act of indecency, stealing from a dwelling and attempting to take a motor vehicle. The Court of Criminal Appeal allowed the Crown's appeal against the manifest inadequacy of the sentence and resentenced King to a term of imprisonment comprising a non-parole period of four years and six months and a balance of two years and six months. The court said that allowing for a 25 per cent discount for pleading guilty at the first available opportunity, the term of imprisonment should have been in the vicinity of nine years and the non-parole period should have six years and nine months. The court then explained why it had not imposed this higher sentence when it said at paragraph 71 of the decision:

However, taking into account the disappointment of the respondent—

that is, King—

a degree of extra-curial punishment—

that is, the publicity involved—

and the fact that this is a Crown appeal, the Court will impose a sentence of significantly less severity than should have been imposed by the Judge...

As I said, it is an established sentencing principle that appeal courts apply double jeopardy principles to Crown appeals against sentences that are manifestly inadequate. A more recent case involves a Crown appeal against a sentence imposed on a man who raped an 81-year-old South Korean tourist in a park in West Ryde—*R v El-Chammas* [2009] NSWCCA 154. In that case, the Court of Criminal Appeal increased the minimum term from three to four years. In delivering the leading judgment and explaining the restrictions on resentencing, Justice Buddin referred to an earlier Court of Criminal Appeal decision in *R v Wall* in 2002, in which it was said by the court:

- (c) A Crown appeal against sentence is concerned with establishing matters of principle "for the governance and guidance of courts having the duty of sentencing convicted persons" ... but this power extends to doing what is necessary to avoid manifest inadequacy or inconsistency in sentencing, that is, where the sentence is definitely outside the appropriate range for the case in hand ...

- (d) The court has a lively discretion to refuse to intervene even if error has been shown, and in deciding whether to exercise that discretion, it should have regard to the double jeopardy that a convicted person faces as a result of a Crown appeal ...
- (e) A sentence which is imposed as a consequence of a successful Crown appeal will generally be less than that which should have been imposed by the sentencing court.

They cite *R v Holder and Johnston* [1983] 3 NSWLR 245 at 256:

... and will generally be towards the lower end of the available range of sentence.

They then cite the High Court authority of *Dinsdale v The Queen* at paragraph 62. The Victorian Director of Public Prosecutions, Jeremy Rapke, QC, was featured in the cover story on law and order in the 15 June edition of the *Sun-Herald* "Sunday Life Magazine". He was asked what law he would like to see abolished. He replied:

The concept of "double jeopardy", when a person is convicted and it's felt that the sentence is inadequate. You can appeal in Victoria and NSW to the Court of Appeal ... but they won't interfere because it would be the second time that person [is tried] for the same crime. That elevates the offender above the victim and society. It's pernicious and discriminatory.

However, Victoria has already joined Western Australia abolishing double jeopardy in sentencing. I think Mr Rapke's comments were recorded before that amendment was passed by the Victorian Parliament. As I said, I have been pressing for such an amendment since soon after I came into this Parliament. On 7 May 2009 I issued a press release in response to the Attorney General's announcing further amendments to the sentencing legislation in relation to sex offences against children aged under the age of 10 years. The Attorney General proposed that the Act be amended to allow for a sentence of up to life imprisonment instead of the 25-year maximum sentence that was available at that time.

On the day that I issued that press release, Ray Hadley interviewed the Attorney General and me together. During that interview I pushed that it would be better to abolish the concept of double jeopardy in sentencing because to go from 25 years to life in prison is not likely to make much difference to the sentences that judges impose because 25 years in prison is already a very lengthy sentence. What was needed was something like the abolition of double jeopardy so that sentencing judges who took a merciful view towards accused persons who pleaded guilty or who were found guilty would not in future be tempted to impose small, inadequate sentences, realising that the Court of Criminal Appeal had the power to go to the top of the range if this concept was abolished. That press release stated:

GIVE THE COURT OF CRIMINAL APPEAL THE POWER TO DO THEIR JOB

The announcement by the Attorney General that yet another new piece of criminal legislation would be introduced was just a further case of this tired and incompetent Labor Government missing the point when it comes to criminal justice in this State, Shadow Attorney General Greg Smith SC said today.

"The NSW Liberal/Nationals will always support laws that increase the protection for children from predators. However there is a much broader issue here and the Rees Labor Government again has failed to see it ...

"Increasing the maximum sentence from 25 years to life imprisonment is not the complete answer to the proper administration of justice in this State ...

"We don't just need more laws to protect children under 10 from burglars who molest them. We need Judges to impose appropriate sentences for these abominable crimes. We need to give the Courts the power to use the existing legislation.

"Instead of giving the Court of Criminal Appeal the power to re-sentence these rapists to a term that should have been imposed in the first case by the trial judge, this tired Government has brought in yet another piece of legislation.

"Maximum sentence increases are worthless if Judges and Magistrates don't use them.

"In the recent case of Ronald King involving the rape of a 4 yo girl, the Court of Criminal Appeal, despite increasing the sentence to a total of 7 years imprisonment, sent a clear message to the Government that they couldn't increase the sentence further, as it was a Crown appeal. If the Court of Criminal Appeal had the appropriate power to impose a sentence at the top of the range, then justice would be done and be seen to be done.

"Rather than taking the easy option, this lazy Government should look at all cases where trial judges have given inappropriate light sentences and give the Court of Criminal Appeal the power to do what the public expects—to give the appropriate sentence for the crime.

"I call upon the Premier and the Attorney General to have the courage to end this archaic sentencing practice and to empower the Court of Criminal Appeal to impose the sentences that should have been imposed.

On that radio show, when I pushed the double jeopardy issue the Hon. John Hatzistergos resisted, saying that he was expecting the Sentencing Council to come up with some new proposals by the end of the year on these sorts

of matters. I am glad that the Hon. John Hatzistergos and the Government listened to my plea because this is a long overdue change, despite the opposition—which I will come to—from the stakeholders such as the Law Society and the Bar Association.

The first area of amendment has to do with retrial. I note that the Legislation Review Committee is most critical of this change because it gives a second right of retrial to the Crown. That means that, having gone through the extraordinary process of having a retrial in a case for an offence punishable by 15 years or more imprisonment—a very serious case—if the evidence was tainted or something tainted the trial to the satisfaction of a test to be applied by the Supreme Court, under this legislation we get a second go. We do not oppose that provision, but the Legislation Review Committee says at paragraph 34 of "Legislation Review Digest No. 11":

The Committee holds concerns that the proposed section 105 (1A) of Schedule 1 [2] will enable a person acquitted of a serious offence in a retrial (once) under the exception to double jeopardy to be retried (twice) again if the acquittal was tainted because of an administration of justice offence. This may potentially subject the person to be tried more than once in connection with similar facts or ultimate issues that were connected with the proceeding in which the person was first acquitted.

That is a matter government can justify and, as I understand it, there has not been a retrial under that regime—sections 101 to 105—since it came into operation in 2006. So these types of appeal, even a retrial, would be very rare; it has not occurred yet. It would be rarer still to be able to prove, in a case where there is a retrial on the basis of tainting the trial process, that there has been further tainting. Surely, the authorities would ensure that all steps were taken to try to stop a dud juror—somebody who gets in there to interfere with the course of justice by pervasively persuading the jury to his or her view—or perjury by witnesses that would lead to an acquittal or some other interference with the course of justice, such as interfering with witnesses.

Nevertheless, under the current Act the Court of Criminal Appeal may order a retrial where there is fresh and compelling evidence and if it is in the interests of justice for a retrial to be ordered. That relates more to offences such as murder, serious drug offences or gang rape, where life imprisonment is the penalty. Section 101 provides that a person to whom this provision applies can be retried only if the offence carries a sentence of 15 years or more and it is in the interests of justice for the order to be made. Section 102 defines fresh and compelling evidence and section 103 defines a tainted acquittal.

Finally, the section to be amended, section 105, deals with the application for retrial procedure. This section will be amended by inserting the provision that an application for a further trial may be made after an acquittal on the basis that the acquittal was tainted. A tainted acquittal is described in section 103 (2) as being if the accused person or another person has been convicted in this State or elsewhere of an administration of justice offence in connection with the proceedings in which the accused person was acquitted and it is more likely than not that but for the commission of the administration of justice offence the accused person would have been convicted. An acquittal is not a tainted acquittal if the conviction for the administration of justice offence is subject to appeal as of right and if the conviction for the administration of justice offence is, on appeal, quashed after the Court of Criminal Appeal has ordered the acquitted person to be retried under this division because of their conviction. The person may apply to the court to set aside the order and, one, restore the acquittal that was quashed; or, two, restore the acquittal as a bar to the person being retried for the offence, as the case requires.

In summary, with regard to double jeopardy after acquittal, division 2 of part A to the Crimes (Appeal and Review) Act 2001 allows an acquitted person to be retried if there is fresh and compelling evidence against that person or if the acquittal was tainted. An acquittal is tainted if the accused person or another person has been convicted of an administration of justice offence, such as perverting the course of justice or perjury, in connection with the proceedings in which the person was acquitted. Accordingly, schedule 1 [2] enables an application to be made for the further retrial of a person who was acquitted at a retrial if the acquittal was tainted. Schedule 1 [1] provides that an appeal court must not dismiss a prosecution appeal against sentence, or impose a less severe sentence on appeal than the court would otherwise consider appropriate, because of any element of double jeopardy involved in the respondent being sentenced again. Existing law requires a court hearing a prosecution appeal against sentence to impose a sentence at the lower end of the range than could properly have been imposed by the sentencing judge.

There are cases to which one could refer. In *Dinsdale v R* [2000] HCA 54 @ 62, judgements were given by Justices Gaudron and Gummow. They were followed by Justice Wood in *R v Wall*. In the case of King, the principle of double jeopardy was relied upon by the Court of Criminal Appeal. That was a decision in 2004—NSWCCA 444. There are literally scores of cases where the Court of Criminal Appeal has said it did not

think it should interfere because there has been too long a delay in bringing the appeal or that the accused has been released, such as on a bond, and has been at large for some time and to put him back in jail would be too traumatic and not in the interests of justice.

There are also cases where the court finds that a sentence was manifestly inadequate and increases it from 12 years to 14 years instead of giving the maximum sentence in the range of 18 years, and the community is dissatisfied with that outcome. The passing of this bill should result in more consistency in sentencing. In the past a successful appeal has almost always resulted in a person receiving a lesser sentence—at times a significantly lesser sentence—to that which should have been imposed. The exceptions to that were the cases of Kalache, and AEM, the gang rape involving the abduction of two girls from Beverly Hills railway station late at night. Although it may be argued that the prisoner had to suffer the imposition of an appeal, it was clear that the prisoner was never likely to receive a sentence that was appropriate to the crime, and it is necessary for that matter to be addressed.

The bill is intended to ensure that an appeal court will not be fettered by the need to reduce the sentence that should have been given in the first place in order to accommodate an outmoded and outdated principle. The sentence imposed should fit the crime. Trial judges will be more inclined to hand down sentences that are appropriate to the crime. Trial judges who are inclined to hand down lighter sentences will be more constrained and will hand down more realistic sentences that will be more consistent and act as a deterrent. Appropriate sentences will restore the community's faith in the administration of justice and dispel arguments in favour of mandatory sentencing. The bill will remove the double jeopardy obstacle currently facing appeal courts in relation to Crown appeals against the manifest inadequacy of sentences imposed, whatever the crime. This will discourage weak judges from being overly merciful. It will strengthen the principle of precedent judgements, allowing trial judges to have more confidence that the determinations of the Court of Criminal Appeal on re-sentence will adequately reflect the criminality of the offence.

Arguments against the bill relate mainly to the long-established culture in the criminal justice system, and civil liability arguments. The Opposition submits that in this day and age there is no legitimate reason to oppose this change in sentencing. It is an important change, and the Opposition supports it. The New South Wales Bar Association submits that there are strong reasons to consider the restraint of re-sentencing a Crown appeal and it refers to the High Court's decision in Dinsdale, which it submits is cogent and should remain in effect. The Law Society of New South Wales is opposed to proposed section 68A, supporting the retention of the longstanding principle of sentencing double jeopardy. The Law Society further states that should proposed section 68A be introduced, it should not apply to appeals commenced and undetermined before the commencement of this bill. The Director of Public Prosecutions and the Legal Aid Commission have been approached but at this stage have not made any submissions. Accordingly, the Liberal-Nationals Coalition does not oppose the bill.

Ms CHERIE BURTON (Kogarah) [4.53 p.m.]: New South Wales led the way in reforming our double jeopardy laws to stop criminals escaping justice. In 2003 the New South Wales Government released an exposure draft bill and in 2006 it passed laws to allow retrials for life sentence offences where there is fresh and compelling new evidence. It is because of the leadership of the New South Wales Government that double jeopardy became an issue on the national agenda and was considered by the Council of Australian Governments. Other States have followed our lead.

We have been monitoring the operation of our groundbreaking double jeopardy laws. Now that they have been in place for sufficient time the Government has decided that it is appropriate to bring forward further reforms to double jeopardy. These are significant reforms to the criminal law and should not be rushed. New South Wales was the first State to reform double jeopardy laws. Queensland passed its double jeopardy laws in October 2007, which allow retrials for murder where there is fresh and compelling evidence, and retrials for offences with penalties over 25 years where there is a tainted acquittal.

Around August 2007 South Australia passed double jeopardy laws allowing retrials for very serious offences where there is compelling new evidence or there has been an administration of justice offence in connection with the first trial. In around November 2007 Tasmania changed its laws to allow retrials for very serious crimes—murder, manslaughter, rape and major drug offences—where there is fresh and compelling evidence and for serious crimes where there is a tainted acquittal. The laws are retrospective. Western Australia passed laws overturning the sentencing double jeopardy principle in 2006. That State does not allow appeals from judge-directed verdicts and judge-alone trials. Victoria and the Australian Capital Territory reserved their positions on the Council of Australian Governments recommendations. The Victorian Attorney General has indicated that he does not support significant double jeopardy reform.

The Government's bill was being developed long before the member for Epping gave notice of his bill. So it is the height of arrogance for him to claim to have come up with this idea. We know that when it comes to developing policy the Opposition practises policy by plagiarism. The last education policy that the Leader of the Opposition came up with was to stop New South Wales mums and dads getting information about how their children's schools are performing. That is a cut-and-paste policy from the New South Wales Teachers Federation and the Greens. The Council of Australian Governments working group made this recommendation on sentencing double jeopardy reform and we are now moving to implement it. The Government has become aware of sentencing double jeopardy being an issue in a number of Crown appeals on sentence. It is now acting on that recommendation to give higher courts the freedom to impose longer sentences, where appropriate. I commend the bill to the House.

Mr STEVE CANSDELL (Clarence) [4.57 p.m.]: I support the Crimes (Appeal and Review) Amendment (Double Jeopardy) Bill 2009, which amends the Crimes (Appeal and Review) Act 2001 to enable a person acquitted of a serious offence in a retrial under the exception to the rule against double jeopardy to be retried again if the acquittal was tainted because of an administration of justice offence, and to provide that an appeal court must not dismiss a prosecution appeal against sentence, or impose a less severe sentence than it would otherwise consider appropriate, because of any element of double jeopardy involved in the respondent being sentenced again.

A chain of events is involved here. The member for Kogarah stated that the New South Wales Government led the way on this issue by sticking its toe in the water in 2003 to feel how cold it was. But it did not have the guts to dive in and get wet. The Government just put up one small provision to make the measure appear tough, but it has little relevance. The chain of events is as follows. The Criminal Legislation Amendment Bill 2009 amends a number of Acts, such as the Crimes Act, the Confiscation of Proceeds of Crime Act, the Drug Misuse and Trafficking Act, Crimes (Sentencing Procedure) Act and the legislation giving police powers to move on people. Section 66A of the Crimes Act increased the penalty for aggravated sexual assault on a child under 10 from 25 years to life. That was a knee-jerk reaction to a pretty horrific case in my area. Ronald King, a 23-year-old man, broke into a house and raped a four-year-old child. Judge Geraghty—who fortunately has since retired—handed down a two-year suspended sentence and, as a parting gift, wished the offender well in the future.

This grub, parasite and paedophile was walking the streets for more than a month before we raised the matter with the shadow Attorney General, who then raised it with the Attorney General. I pay credit to the Attorney General for taking action. But it was a month before the Director of Public Prosecutions appealed the matter. The double jeopardy rule would not have made a difference, because this guy would still be walking free. As I said, the Director of Public Prosecutions eventually appealed the matter. However, because of the double jeopardy rule the most the courts could give this guy, who had a 15-year minimum sentence on his head, was imprisonment for about six years and nine months. He will be out of jail in 4½ years because he had served 14 months in jail leading up to the hearing.

The double jeopardy rule needs to be removed. When crimes that deserve the maximum sentence available are committed—heinous crimes like the one committed against this young girl—we do not want the sentence to be impeded by legislation. The Office of the Director of Public Prosecutions acts as the watchdog for the community; on behalf of the community it ensures that justice is done. If we are to implement the double jeopardy rule—and hopefully the Director of Public Prosecutions will then appeal these cases—we need to give the Office of the Director of Public Prosecutions the resources, manpower and financial backing to ensure that it can oversee the results of these court cases. If the sentences handed down are inadequate, the Director of Public Prosecutions can then act immediately, rather than hope that someone in the community picks up the issue. I pay credit to the Grafton *Daily Examiner* investigative journalist who picked up on the Ronald King case. The story was reported in the newspaper before anyone else knew about it—even before the victim's family knew about it. It was a miscarriage of justice. In the end it was a reasonable result, but it is just unfortunate that the double jeopardy rule was not removed before this case, as well as many others, was heard.

As I said, with regard to the double jeopardy exercise, in 2003 the New South Wales Labor Government stuck its toe in the water to feel how cold it was. In the intervening six years how many sentences imposed have been totally inadequate? How many grubs, parasites, paedophiles, criminals and murderers have walked away with lesser sentences than they deserved? That is unfortunate. However, the double jeopardy rule is now in place. I pay credit to the shadow Attorney General. On 14 May this year in debate on the Crimes Legislation Amendment Bill 2009 he said:

It is arguable that the proposed amendment of section 66A is just another example of the Government introducing piecemeal legislation. As I have stated previously, in my view the proper approach for this Government to adopt would be to provide the Court of Criminal Appeal with power to impose a sentence that is appropriate to the crime. As stated in a media release,

increasing our maximum sentence from 25 years to life imprisonment is not the complete answer to the proper administration of justice in this State. We do not just need more laws to protect children under 10 years of age from burglars who molest them; we need judges to impose appropriate sentences for these abominable crimes. We need to give the courts the power to apply the existing legislation.

The shadow Attorney General first raised this issue in May this year. I pay credit to him for that. I also pay credit to the Attorney General for listening to the shadow Attorney General and agreeing with him that the legislation is necessary—even though at the time he did not think it was. I disagree with one point raised by the shadow Attorney General. Today he said that trial judges who are inclined to hand down lighter than appropriate sentences should be constrained to hand down more realistic sentences. I support that. The shadow Attorney General went on to say that appropriate sentences will restore community faith in the administration of justice and dispel arguments in favour of mandatory sentencing. I am afraid that my argument remains: for heinous crimes there should be a mandatory minimum sentence so that magistrates and judges—where they are errant, have a bad day, or whatever—do not impose inadequate sentences.

For example, I refer to section 66A of the Crimes Act, which deals with young children. I believe anyone who commits aggravated sexual assault against a child under the age of 10 years is a very sick person and needs to be removed from the community and locked up for a lengthy minimum period. I also believe that members of our Police Force today are being spat on and assaulted, and more often than not the criminals who attack our police—I call them criminals because anyone who attacks our police is a criminal—are walking away with light sentences. I recall that a couple of years ago one of our magistrates let off some of these people who spat at police officers and called them names. The police were simply told that they should expect such behaviour in their job, and the thugs were allowed to walk free. I believe there should be a mandatory jail sentence for anyone who commits aggravated assault against a police officer—regardless of whether they spit on them or hit them.

Recent events in the Auburn area come back to haunt us. Police officers went to a trouble spot and were attacked by a group of people. If people were aware that if they touch a police officer they will go straight to jail and spend a minimum of three months there, it would give our police some sense of security when they go into the community to perform their duties. It is not like we have six-feet-six, 18-stone police officers these days. Because of the relaxing of the size, height and weight of police officers, and also given that we have female police officers in our Police Force—who are doing a darn good job—we need laws to protect them. They do not have such laws currently. As a senior police officer told me last month, if police officers had laws to protect them, and they went out on a job knowing that if they were assaulted they could lock up the offenders, and people were aware of that, it would prevent them from attacking police officers. We would then have fewer assaults on police officers and fewer officers on long-term stress leave. I support the bill. I think it has filled a gap that has needed to be filled for six years. I commend the bill to the House.

Mr GERARD MARTIN (Bathurst) [5.07 p.m.]: I speak to the Crimes (Appeal and Review) Amendment (Double Jeopardy) Bill 2009. Members who listened to the contribution of the member for Clarence may think we are debating another matter altogether. Without canvassing matters that may be viewed as irrelevant to this debate, this Government's record on enacting laws to protect our police officers is extremely strong. The member for Clarence did not quite get to speaking about introducing capital punishment, but I think that was probably coming.

The bill amends the Crimes (Appeal and Review) Act 2001 to make further provision in relation to the principle of double jeopardy in criminal proceedings. This has always been a contentious issue of law, going back hundreds of years. I guess many in the legal profession will argue that it is the way it should be: people should have their day in court and we should all accept the consequences. We appoint judges, who are fallible people, but we have appeal processes in place. It is one of the reasons why many of us do not support mandatory sentencing.

The bill proposes two principal changes. The first is to ensure that when an acquittal is tainted, the acquitted person can be tried again without inference, regardless of whether the tainted acquittal arises in the first trial or any subsequent trial. The second is to remove the principle of double jeopardy in sentencing. The bill also addresses the issue of errors in trials. If a lower court has made an error, appeal courts will be allowed to impose a penalty that reflects the criminality of the offending, without reducing the sentences because of the double jeopardy principle. Once again we return to the fallibility of the judiciary but we have processes in place to check that.

The bill also looks at administration of justice offences, including bribery, interference with a juror or witness, perversion of the course of justice, and perjury—there are plenty of examples of that. In fact, a prisoner

on remand in my electorate is currently awaiting sentence for having a contract taken out to kill two women involved in giving evidence as to his sexual abuse of minors. We must be vigilant. The bill builds on the leading work of New South Wales in the area of double jeopardy reform. Following the controversial High Court case of *The Queen v Carroll* in 2002, New South Wales was the first Australian jurisdiction to commit to this groundbreaking area of reform, when former Premier Bob Carr announced in 2003 that New South Wales would pursue reforms to overturn the 800-year-old rule against double jeopardy.

To argue strongly on this point one needs to look at individual cases, which bring home very clearly the reason for the bill. In 1985, Raymond John Carroll was tried for the sexual assault and murder of Deidre Kennedy, a baby whose body was found on the roof of a toilet block in Ipswich, Queensland. A jury convicted Carroll, but the conviction was quashed on appeal. In 1999, fourteen years later, the police had assembled new evidence against Carroll. This included a new witness placing Carroll in Ipswich, another witness who claimed Carroll confessed the killing to him in jail, and further evidence relating to bite marks. Carroll was then charged with perjury on the basis that he had lied in his original trial when he denied killing Deidre Kennedy. Carroll was convicted of perjury, but had this conviction overturned because the High Court in its wisdom said the perjury prosecution was an "abuse of process". The High Court held that the prosecution offended the rule against double jeopardy, because in order to show that Carroll had committed perjury it also had to be proved for a second time that Carroll had committed the original murder.

In the wake of this case it became clear that the public would no longer tolerate criminals getting away with serious crimes where fresh evidence had emerged to cast doubt upon their acquittals. Acknowledging that this would be a complicated and controversial reform, the New South Wales Government released a draft bill in September 2003 and invited comments on the proposed reforms—realising that bringing in the reforms would overturn 800 years of legal history. The Government also sought expert advice from Justice Jane Mathews on the provisions of the bill. Justice Mathews made a number of recommendations to improve the bill and these were taken into account in further refining the proposals. As the issue had significance for all jurisdictions in Australia, the Government also forwarded the bill to the Model Criminal Law Officers Committee, so that the committee could consider the bill and make recommendations regarding its adoption to the Standing Committee of Attorneys-General.

Other States and Territories were initially reluctant to pursue this reform, and the proposals were the subject of considerable discussion at the national level. One should remember that New South Wales took the lead on this. In 2006, the Council of Australian Governments [COAG] agreed to prioritise the issue and established a senior officers working group to consider the proposals in detail. The working group used the New South Wales draft bill as a basis for its considerations. A few minutes ago the member for Clarence described the New South Wales Government of that time as having put its toe in the water, felt that the water was cold and did not have the guts to dive in. Under the leadership of former Premier Bob Carr, and subsequently, the Government has followed the proper course, to obtain a national approach—the responsible way to go about it.

Again leading the way, in September 2006 New South Wales introduced its own legislation into Parliament, and the Act commenced in December 2006. The New South Wales Government stated at the time that should the working group of the Council of Australian Governments recommend proposals that diverged from the New South Wales Act, the Government would consider further amendments if necessary. The final recommendations of the Council of Australian Governments differed in a number of minor aspects from the enacted New South Wales legislation. Following careful consideration of these differences, the Government has now decided to legislate to implement two important further changes, which are reflected in this bill.

As previously outlined, the bill will remove the principle of "sentencing double jeopardy" in Crown appeals against sentence, and ensure that a person can be retried multiple times whenever their acquittal is shown to be tainted by an administration of justice offence. Building on the Government's original and pioneering legislation, and drawing on the subsequent recommendations endorsed by the Council of Australian Governments, this bill will ensure that New South Wales has the best model for double jeopardy law reform anywhere in Australia. For those reasons I commend the bill to the House.

Mr VICTOR DOMINELLO (Ryde) [5.15 p.m.]: I speak in favour of the Crimes (Appeal and Review) Amendment (Double Jeopardy) Bill 2009. I congratulate the member for Epping and the member for Clarence who have inspired this worthy legislation. The bill essentially has two limbs. The first limb is to enable a person acquitted of a serious offence in a retrial under the exception to the rule against double jeopardy to be again retried if the acquittal was tainted because of an administration of justice offence. The second limb is to

provide that an appeal court must not dismiss a prosecution appeal against sentence or impose a less severe sentence than it would otherwise consider appropriate, because of any element of double jeopardy involved in the respondent being sentenced again—for future clarity that is the sentence provision.

In considering the merits of the bill it is useful to understand the rationale behind the double jeopardy rule and the general arguments for and against changing the double jeopardy law. The rationale and the arguments against double jeopardy have been usefully considered by Ms Rowena Johns in New South Wales Parliamentary Library research briefing paper No. 16, published in August 2003. I quote some of Ms Johns' references:

A classic statement of the rationale behind the double jeopardy rule—often cited in case law and academic articles—was made by Black J in the Supreme Court of the United States in the case of *Green v United States* (1957) 355 US 184 at 187:

The underlying area, one that is deeply ingrained in at least the Anglo-American system of jurisprudence, is that the State with all its resources and power should not be allowed to make repeated attempts to convict an individual for an alleged offence, thereby subjecting him to embarrassment, expense and ordeal and compelling him to live in a continuing state of anxiety and insecurity, as well as enhancing the possibility that even though innocent may be found guilty.

Ms Johns provides a useful summary when going through the arguments for and against changing the laws on double jeopardy. I continue to quote from the briefing paper:

Justice: Convicting those who are guilty serves justice and fosters public confidence in the legal system. The law is brought into disrepute if offenders evade conviction.

Victims' rights: Victims, or the families of deceased victims, have the right to expect that offenders will be punished. The trauma and lack of finality experienced by victims when the accused cannot be prosecuted again, despite the uncovering of new evidence, is just as unfair as exposing the defendant to the emotional and financial strain of another trial.

A further important point is that laws should evolve over time. The research paper states:

The law should adapt in response to the needs of society, rather than remaining static. The double jeopardy principle originated in a less sophisticated era when defendants had fewer protections in the trial process, limited rights of appeal, and could receive the death penalty as a consequence of conviction.

A further argument in favour of changing the law on double jeopardy is the issue of safeguards. It is noted in the paper:

Appropriate safeguards can be developed to guard against misuse of the power to reopen acquittals. New evidence would have to reach a high standard, and applications would go through a rigorous process before an acquittal could be quashed. During the retrial, judicial directions and reporting restrictions would reduce the dangers of prejudice to the defendant and negative publicity. The defendant could elect a trial with or without a jury.

I will return to the issue of safeguards later. The arguments against changing the laws on double jeopardy are equally compelling. On the importance of finality, the research paper notes:

The efficient operation of the courts and the justice system depends on finality in the determination of proceedings. Public confidence in the administration of justice is also affected by the ability of the system to convict a defendant the first time.

A further argument against change is the abuse of power by the State. We should always keep this argument in our minds. The paper states:

The State has greater resources and authority than the individual. It would be an abuse of the State's power to allow it to make multiple attempts to convict a person for the same act.

Ms Johns has referred to a number of further arguments in her very useful summary. In a recent decision by the Court of Criminal Appeal, comprising Justices McColl, Howie and Buddin, in *R v King*, [2004] NSWCCA 444, dated 7 December 2004, the court stated:

I have taken into account that in re-sentencing the respondent, the court must recognise the element of double jeopardy involved in the respondent twice standing for sentence by imposing a sentence which is less than the sentence it considers should have been imposed at first instance. This has been described as "the least sentence which could properly have been imposed ... at first instance."

The court also referred to it as "one which is at the bottom of the range" or the "minimum sentence which should have been imposed at first instance". I applaud the second limb in the bill, which relates to the review on sentence. A Court of Criminal Appeal comprising three senior judges should be entitled to review the material

before it and come to an appropriate sentence in the circumstances. The court should not be compelled or obliged to impose a sentence that is at the low end of the range. The low end of the range may not be in accordance with community standards. For example, a trial judge imposes a sentence of five years but the Court of Criminal Appeal determines that the range of sentence should be between 10 and 20 years. Even if the appeal court wants to impose a sentence, given community standards at the time, of 19 or 20 years, it will be compelled under this concept of double jeopardy to impose a sentence at the lower end of the range, that is, 10 years. That may be out of step with the court's wishes. The appeal court may consider in all the circumstances that the appropriate sentence is from 15 to 20 years. These three judges should not be hamstrung by a principle that is based on history.

I take comfort from the most compelling argument in favour of changing the double jeopardy laws, that is, laws should evolve. The law should adapt to the needs of society rather than remain static. The double jeopardy principle originated in a less sophisticated era when defendants had fewer protections in the trial process and limited rights of appeal and could receive the death penalty as a consequence of conviction. Those issues no longer apply. Accused have ample protection during the trial process and ample rights of appeal and, thankfully, we have evolved in a society where the death penalty is no longer available. For all these reasons, I believe that this bill meets community standards and reflects community expectations.

In relation to the first limb, that is a further retrial, there are appropriate safeguards. A very high barrier is in place. In essence, there can only be a further retrial if the acquittal was tainted because of an administration of justice offence. If we trawled through all the cases, it would be difficult to find more than one or two that would come before the court under this proposed section. Overall, I believe it is worthwhile legislation. It is unfortunate that it has taken so long to come before the House. I again commend the member for Epping and the member for Clarence, whose championing of this legislation reflects how in touch they are with the community.

Ms NOREEN HAY (Wollongong) [5.27 p.m.]: Sentencing double jeopardy is a principle established in sentencing case law that even where a lower court is found to have made a sentencing error the appeal court can either decline to change the sentence or restrict an increase in the sentence to the lower end of the appropriate range. This law applies because convicted offenders face a "double jeopardy" in that, as a consequence of appeal, they are sentenced for a second time. The court is restricted from imposing a sentence that reflects the true seriousness of the crime because of the principle known as "sentencing double jeopardy". Members would be aware of the general principle of double jeopardy that a person should not be tried twice for the same crime. I am pleased that the Rees Government has moved to reform this area of criminal law to ensure that the law reflects community values and expectations. This change will allow the higher courts to impose longer sentences on appeal if the lower court has made an appealable error and imposed a manifestly inadequate sentence. The new section will ensure that courts are empowered so that justice is done and they can make the punishment fit the crime.

We are also reforming the law to ensure serious criminals who get an acquittal by interfering with jurors or witnesses will not be able to escape justice. Under the changes, if in a double jeopardy retrial a person commits an administration of justice offence, such as interfering with a witness or juror, and by doing so is acquitted of a serious offence, a subsequent retrial will now be allowed. This is a vital change to help defend the integrity of our justice system from attempts by criminals to pervert the course of justice. We hope that this provision is never needed, but if it is ever required it will be vital in ensuring that serious criminals cannot escape justice by interfering with the fabric of our justice system.

When it comes to reforming the law surrounding double jeopardy the New South Wales Labor Government has led the nation. These latest reforms represent a measured and important improvement to the law and they flow from the Council of Australian Government's Working Group on Double Jeopardy. These new laws will enhance confidence in the justice system by preventing criminals from escaping justice by committing crimes such as interfering with jurors or witnesses, and by allowing an appeal court to give the sentence that fits the crime, unfettered by double jeopardy considerations.

Mr MALCOLM KERR (Cronulla) [5.30 p.m.]: I make a brief contribution to the Crimes (Appeal and Review) Amendment (Double Jeopardy) Bill. No doubt many members would have fond memories of the review of case law that I provided to the House some weeks ago in relation to double jeopardy, and no doubt as Christmas is approaching many people would be looking forward to getting a copy of that speech under the tree.

Mr Barry Collier: I've got it framed already.

Mr MALCOLM KERR: The member for Miranda has already put in an order. No doubt his family is saving to get a copy of *Hansard*. But dealing with the substance of this bill, there is an old saying in Cronulla that the law is there to serve the community; the community is not there to serve the law. That saying was underlined by the speech given by the member for Ryde when he spoke about the way the law has evolved to meet the needs of the community, and this is the situation in relation to this bill. There were very strong arguments in relation to double jeopardy when the law evolved. But many of those arguments no longer apply. The member for Wollongong said, in effect, that what we are concerned with here is justice. The community is entitled to have justice administered and for offenders not to escape by legal technicalities.

In the short time I have I draw attention to Legislation Review Digest No. 11 of 2009 of the Legislation Review Committee. I know in the years to come many people will be looking at the debate in relation to this bill because it will have an application to many criminal trials. To ensure that justice is done, I draw the attention of the House to paragraphs 26, 27, 28 and 29 on page 21 of the digest and ask that the Parliamentary Counsel address these matters when he reports to the House. Paragraph 26 states:

The Committee is concerned that in effect, the amendments will enable the prosecution to retry a person for more than once under the exceptions to double jeopardy by allowing the proposed section 105 (1A) of Schedule 1 [2] to be made for a further retrial of a person already acquitted in another retrial under this Part of the Act on the ground that the acquittal at the retrial was tainted (such as perversion of the course of justice, bribery or perjury).

Paragraph 27 states:

The Committee is also concerned that the Bill will erode the long established principle that an acquittal is not to be contradicted or undermined by a subsequent charge that raises the similar ultimate issues or similar facts as were involved in the acquittal.

The digest also quotes the reasoning of Mr Justice McHugh in a judgement he gave. I conclude my contribution to this debate with those remarks.

Mr BARRY COLLIER (Miranda—Parliamentary Secretary) [5.34 p.m.], in reply: I thank the member for Epping, the member for Kogarah, the member for Clarence, the member for Bathurst, the member for Ryde, the member for Wollongong and the member for Cronulla for their contributions to debate on the Crimes (Appeal and Review) Amendment (Double Jeopardy) Bill 2009. I also thank the learned member for Epping for his dissertation on the case law, as I should thank the member for Cronulla. The member for Epping pointed to some of the inconsistencies in the present law, for example, the non-application of the principle in retrials. He mentioned the case of *R v Parker* in relation to the warning given to appellants to the District Court, and he canvassed cases such as *R v Holder and Johnson*, *R v Tate and Bartley*, *R v King*, *Dinsdale v R* and *R v Wall*.

Suffice to say that as someone who worked in the Court of Criminal Appeal division of the Office of the Director Of Public Prosecutions and briefed many eminent Crown Prosecutors—some of whom became Supreme Court justices—I sat in the Court of Criminal Appeal thinking about the need for reforms to the rule against double jeopardy as far back as 1991. I thought then that judges should have the maximum penalties available to them, as they will under this bill, subject, of course, to a Crown appeal getting over the first hurdle that the sentence imposed in the court below was manifestly inadequate.

The bill and the change it brings promotes public confidence in the justice system, ensuring that a convicted person is liable, even on an appeal by the Crown, to receive an appropriate sentence for the crime. It will promote consistency in sentencing and it will allow for the development of appropriate precedents for the courts below, particularly below the Court of Criminal Appeal. The member for Epping and the member for Cronulla have referred to matters raised by the Legislation Review Committee and I propose to deal with those now.

Almost all the concerns raised by the Legislation Review Committee are, in fact, concerned with the original provisions of the 2006 Act, which have now been in operation for nearly three years, and which, in any case, represented targeted and limited exceptions to the general rule against double jeopardy. The committee's concerns generally do not relate to the specific proposals in this bill. For example, paragraph 27 of the Legislation Review Digest states:

The Committee is also concerned that the Bill will erode the long established principle that an acquittal is not to be contradicted or undermined by a subsequent charge that raises the similar ultimate issues or similar facts as were involved in the acquittal.

The bill does not overturn this principle any more than the original double jeopardy reforms made in 2006. It does not create any new circumstances sufficient to justify a retrial. The only difference is that an offender can

be retried again if his or her initial retrial was tainted. This is entirely consistent with the 2006 reforms. The 2006 legislation inserted section 101 into the Act to allow double jeopardy retrials for offences carrying a punishment of 15 years imprisonment, where it is shown that the acquittal was tainted by an administration of justice offence. Paragraph 29 of the digest states:

The Committee notes ... that the Bill's proposed amendments may potentially lead to an abuse of process to charge a person with an offence of perjury or perversion of justice when proof of the charge could necessarily contradict or undermine and acquittal of the accused in respect of another criminal charge.

It is difficult to see how the provisions of the current bill in any way give rise to this concern. As stated, the bill merely allows further retrials where an acquittal has been tainted. The circumstances described by the committee relate to bringing an inappropriate administration of justice prosecution, which would involve undermining the original acquittal. Neither the 2006 reforms nor this bill alter the High Court's decision that such a prosecution is not allowed as it represents an abuse of process. Paragraph 34 of the digest states:

The Committee holds concerns that the proposed section 105 (1A) of Schedule 1 [2] bill ... may potentially subject the person to be tried more than once in connection with similar facts or ultimate issues that were connected with the proceeding in which the person was first acquitted.

This is indeed the case, but only where it has been proven that the acquittal was, in fact, tainted. It is repugnant to suggest that a person should be allowed to escape conviction by bribing a juror or by intimidating a witness. These administration of justice offences strike at the heart of our criminal justice system and cannot be allowed to prevent matters being determined with integrity.

Three issues were referred to Parliament, including paragraph 35. This again highlights that, with respect, the committee has not understood the bill or current New South Wales law. Prosecutions for administration of justice offences that raise the same or similar issues as the original acquittal—such as a perjury prosecution for denying in the original trial that they committed the murder—are not allowed under the High Court decision of Carroll. This legislation does not alter that, nor did the 2006 legislation. However, there are administration of justice offences that do not raise similar issues to the original trial, such as interfering with a juror or witness. The bill is consistent with the current law in New South Wales that a person who is acquitted of an offence carrying a term of 15 years imprisonment or more may be tried again if that acquittal is found to be tainted, and hence does not unduly trespass on a person's right not to be tried twice.

In response to paragraph 36 of the Legislation Review Committee's report, the bill does not unduly trespass upon a person's rights in respect of sentencing because the appeal court will retain significant discretion in how to respond to a Crown appeal against a sentence. A person will receive a more severe sentence only where there was a clear error in their original sentence and that error was significant enough to warrant correction. The appeal court will also be able to take into account the time that a person has already served in custody and any delays in lodging the appeal, and will be able to respond to those issues appropriately. As the agreement in principle speech outlined, the principle of double jeopardy in relation to retrials is different from double jeopardy in relation to sentence appeals. In the Government's view, the expectations of the community and victims in seeing the proper sentence imposed have not been given adequate attention and they need to be emphasised.

In response to the committee's paragraph 37, the United Kingdom Joint Parliamentary Committee on Human Rights, Second Report, 27 January 2003, came to the view that exceptions to the double jeopardy rule would not offend the relevant provision of the International Covenant on Civil and Political Rights—Article 14.7—if there is a legislative scheme in place regulating the circumstances in which a case can be reopened and that scheme limits the reopening to cases where new evidence has become available, or there has been a fundamental defect in the earlier proceedings. The New South Wales legislative scheme in respect of double jeopardy satisfies those principles and as such can be consistent with the covenant. This bill does not risk incompatibility with the covenant.

I acknowledge the contribution made by the member for Clarence and his passion with regard to the Ronald King case. We all understand that. The Government does not agree with the member for Epping that sentencing double jeopardy is the only way to deal with sentences for sexual intercourse with a child under the age of 10 years. It was important to add the offender breaking into the victim's home to the aggravated offences, which carry a life sentence. That change will apply to all future sentences for that offence. Increasing the maximum penalty applies to all sentences. The sentencing double jeopardy principle change will apply only in successful Crown appeals. Of course, the hurdle is that the original sentence must be manifestly inadequate. We

have not chosen one of these options; we have chosen both. This bill represents a tightening of this State's groundbreaking double jeopardy laws to ensure that offenders face the appropriate punishment for their crimes and cannot cheat the justice system without consequence. I commend the bill to the House.

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

Motion agreed to.

Bill agreed to in principle.

Passing of the Bill

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

ACTING-SPEAKER (Mr Matthew Morris): Order! It being before 5.45 p.m., the House will now proceed to private members' statements.

PRIVATE MEMBERS' STATEMENTS

RYDE DRUG, ALCOHOL AND GAMBLING SERVICE

Mr VICTOR DOMINELLO (Ryde) [5.43 p.m.]: Last night a number of concerned local residents and interested stakeholders met to discuss the future of the Ryde Drug, Alcohol and Gambling Service. The service provides assistance to my local community and portions of neighbouring communities in the Epping, Lane Cove and Parramatta electorates. I could not attend because Parliament was sitting and I thank Mark Chan for representing me. Located at Ryde Hospital and Community Health Services, the Ryde Drug, Alcohol and Gambling Service caters for about 12 clients a day, with numbers reaching around 240 a month. The number of local residents making use of the service was noted in the Northern Sydney and Central Coast Area Health Service 2008 Clinical Services Strategic Plan, which stated that drug and alcohol services at Ryde and a number of other hospitals in Sydney's north were "operating above funded capacity" and were accepting only priority cases, with other cases being referred to private clinics.

Although the service operating in Ryde is small by comparison to other drug, alcohol and gambling services in Sydney, this report reveals a need for increased resource allocation to cater for the high demand. We have been told that the service is not closing down, simply moving to Royal North Shore Hospital. However, for those living to the Ryde area with a drug, alcohol or gambling dependency, moving the service to St Leonards will effectively have the same impact as would closing down the service completely. Members should make no mistake: This decision will affect the entire community of Ryde and surrounding areas. Public transport options for people in northern Sydney who attend the service are as unreliable and fragmented as those across the entire Sydney public transport network. A move will only exacerbate the existing difficulties many experience using public transport. Accessibility to this service is key to ensuring its future success.

When the service is closed, the Ryde community and surrounding communities will fall into a service provision black hole. Clients will become less interested in travelling large distances to seek rehabilitation and, as a result, many will return to their former lives of abuse and dependence. A major concern for the Ryde community about the removal of this service is the potential increase in recidivism directly related to clients no longer receiving rehabilitation support. Addictive substances and behaviours without adequate treatment can take control of people's lives and lead to criminal action to feed their addiction. The primary goal of the Ryde Drug, Alcohol and Gambling Service is to assist people who want to change their life for the better and to seek a new start. By removing this service, the New South Wales Labor Government is effectively denying people that opportunity.

Instead of cutting front-line services in an identified high-demand area, the Government should be taking every step to improve accessibility to rehabilitation services by providing those in need with the best opportunities available to end a life of dependence. The closure of the Ryde Drug, Alcohol and Gambling Service is the latest example of service cuts associated with Ryde Hospital and Community Health Services. As I have said previously in this place, the uncertainty about the future of Ryde hospital is having an obvious adverse effect on staff morale and the community generally.

The New South Wales Labor Government has refused to outline its long-term plans for the hospital. Instead, it has cut services attached to the hospital and left staff in the dark until the last minute. The State Government must provide answers to the people of Ryde and surrounding areas about the future of Ryde hospital and its services. Health professionals and concerned community members deserve to know the Government's plans and there should be transparency. I call on the Minister for Health not only to scrap the disastrous plan to close the Ryde Drug, Alcohol and Gambling Service but also to commit to the future of Ryde Hospital and to end the culture of cutting services at the last minute without any community consultation.

EAT IT, WORK IT, MOVE IT PROGRAM

Mr GEOFF CORRIGAN (Camden) [5.48 p.m.]: I am proud to talk about the Eat It, Work It, Move It program. I attended the program launch in 2006. The program was developed in conjunction with the Macarthur Division of General Practice and Mark Long, an excellent teacher at Elizabeth Macarthur High School. The program focuses on improving physical activity opportunities and providing nutritional information to students and staff at the local high schools participating in the program using the health promotion skills framework. A press release states:

A unique exercise and healthy eating education program is reaping benefits in fitter and healthier kids in South Western Sydney, with almost 20 percent increase in physical activity in some high school pupils and a large rise in water consumption, according to study results.

I will move on to that shortly when I speak about the 28 August announcement of the results of the program. This program, which runs in local high schools, teaches pupils about good eating habits, drinking more water, cutting out soft drinks and so on. On 28 August I was happy to join the Macarthur Division of General Practice—I again congratulate it on the development of this program—along with Mark Long, the West Tigers and the other sponsors of the program. Other sponsors include the Western Suburbs League Club at Campbelltown, the Healthy Active Community and Sports Grants Program of the Department of Health and Ageing, West Tigers, the National Rugby League One Community Foundation and the *Camden Advertiser*, as our media partner.

I refer to the results of the eight high schools that have been involved in the program since it was launched in 2007. An 11.8 per cent and a 70 per cent increase in physical activity were achieved in two of the high schools involved—excellent work. There was a 40 per cent increase in water consumption in one local high school and an almost 100 per cent increase in water purchasing at one high school. There was a 74 per cent increase in skim milk consumption and a 59 per cent decrease in flavoured milk purchases at another high school. As Mark Long, the program coordinator, said on the day:

These results indicate not only the success of the program, but the buy in from parents and pupils into healthy living choices—and the expected health benefits from that.

My colleague the member for Macquarie Fields, Dr Andrew McDonald, has told me quite often that young people who take up healthy activity and healthy habits in young life can extend their lives by up to 15 years. I congratulate them for this. On the day 1,200 students were involved in the program. The editor of the *Camden Advertiser*, Michelle Burrell, wrote the following in her editorial:

What a sight! More than 1000 Macarthur students embracing the Eat It Work It Move It program and turning out for a sports gala day at Kirkham Reserve, Elderslie, on Friday.

Eat It Work It Move It has had some outstanding outcomes, both in the way young people are taking to the program and its actual results.

Results including a 50 per cent increase in kids eating five serves of vegetables a day and a 40 per cent increase in water consumption at one school, gives us confidence that we can be positive about the health of the next generation. With more than 50 per cent of people aged over 16 overweight or obese (... *Sydney Morning Herald* report, May 17 ...) it was time someone took the lead in this area.

The Macarthur Division of General Practice did just that when it developed the Eat It Work It Move It program.

And with the program originating right here, the Camden community is leading the way, setting a healthy example which the division hopes will one day be followed by the rest of the country.

I thank Michelle for those comments. It is good to see local papers supporting local activities. Once again I congratulate Mark Long on the great work he has done, together with the local high schools, Macarthur High School, Elizabeth Macarthur High School and Camden High School. As every member knows, all these things could not take place without the support of sponsors. On 28 August the Western Suburbs Leagues Club

provided the food for everyone. It was healthy food. We had Vietnamese rolls, olives and so on—the same healthy food that the kids are being encouraged to eat. I again mention the other sponsors: Healthy Active Australia Community and School Grants Program of the Department of Health and Ageing, West Tigers—I was pleased to see Blake Lazarus supporting the program—the National Rugby League One Community Foundation and the *Camden Advertiser*, our media partner. I congratulate Mark Long on his hard work and development of this program. I congratulate the Macarthur Division of General Practice on its great work.

CHILD ABUSE

Mr GEOFF PROVEST (Tweed) [5.53 p.m.]: Once again I speak in the House on an important issue. Yesterday was White Balloon Day. The White Balloon Day awareness campaign runs throughout Australia during National Child Protection Week. This year marks the thirteenth anniversary of the annual White Balloon Day campaign. In 1999 White Balloon Day prompted an unprecedented 514 per cent increase in the number of child sexual assault disclosures. This phenomenal figure indicates that White Balloon Day raises awareness and protects children against sexual assault in Australia. The humble white balloon has been adopted by Bravehearts as symbolic of the issue of child sexual assault. On 20 October 1996 a public meeting was held in Belgium where 300,000 people gathered with white balloons in a show of public sympathy and support for the parents of young girls who were sexually assaulted and were either murdered or missing at the hands of a previously convicted and released paedophile.

By showing our support and breaking the silence, White Balloon Day will help give a voice to those affected by child sexual assault. Somewhere, someone suffering in silence will see the balloon and know that we have supported them. The facts are alarming. One in five Australian children will be sexually assaulted before the age of 18. This equates to an alarming 50,000 children in Australia every year. Bravehearts is Australia's leading child protection advocate. It was founded by Hetty Johnston in 1997. Bravehearts aims to forge a movement for change in how paedophilia is dealt with by the criminal justice sector, governments and the community while providing survivors of child sexual assault with a voice. Bravehearts is a great organisation and provides comprehensive counselling for children and young people who have experienced or who are at risk of experiencing child sexual assault. Bravehearts also provides advocacy and support for adult survivors and is actively involved in education, prevention, early intervention and research programs.

I want to praise our local Department of Community Services. Its 50-odd staff do an excellent job, but the Tweed statistics are alarming. In 2005-06, 74 children and young persons in the area were taken from their families and entered foster care. In 2006-07, another 63 children were taken. I would like to make the House aware of one personal experience. A number of months ago a young father came to my office with three children under the age of 12. They originally came from Adelaide. For the previous month they had been living in a tent at Mullumbimby, not far from the great electorate of the Tweed. He came to the office on a Friday afternoon about four o'clock and basically told me he could not cope looking after the children any more and he was distressed. He walked out the door and left those children in my care. There were a number of phone calls to the Department of Community Services and we stayed back in the electorate office. The great girls who work with me and I fed the children and clothed them, and so on. We actively followed that case. The Department of Community Services staff are very good. A while ago the Minister was in my area and I praised the staff in front of her.

Unfortunately, we face the cross-border anomaly. Those children were abandoned by their mother eight years before. Through Centrelink and the Department of Community Services they found their natural mother, who was living in south-east Queensland. Authorities contacted her, interviewed her for 20 minutes and gave the children back. Unfortunately—and I have not had a further update—that woman was living in a de facto relationship and had two children to her new partner. Her partner was just about to be released following domestic violence charges and was to arrive home the next day. He would get home from prison and find that his family had increased by three, which I thought was amazing.

Department of Community Services officers—who will remain nameless—told me there was no cross-border cooperation. Once the children stepped across the border their responsibility was finished and there was no way they could contact their Queensland counterparts to follow up. I thought that was strange because I saw the pain and suffering in those kids eyes and the feeling of not belonging. I would like the Government to look at further cross-border anomalies. I am all for Bravehearts. I am 100 per cent for the Tweed.

RAMSGATE LIFE SAVING CLUB

Mr FRANK SARTOR (Rockdale) [5.58 p.m.]: Today I speak about a great institution in my electorate, the Ramsgate Life Saving Club. The Ramsgate Life Saving Club has served the community with

enormous distinction since its inception in 1933. Its first meeting took place at the Ramsgate Beach kiosk and Mr W. Connell was elected its first president. The newly formed club was given an old building known as the barn by Rockdale council on the beach side of The Grand Parade. The club was affiliated with the Royal Life Saving Society Australia and in 1934 the first Bronze squad passed their examination in Pemberton Baths, where Coles Ramsgate is located now.

During World War II the club remained active. From 1951 to 1957 Ramsgate Life Saving Club was the State Champion, with a champion men's marching team. It was also during these years that women were allowed to join, increasing the club's membership and awards. After 25 years of service the clubhouse, known as the barn, was severely rundown. With the help of council, the progress association, Ramsgate RSL, Georges River Sailing Club, Rockdale Lions Club, St George Leagues Club and members of the lifesaving club, sufficient funds were raised to build a new venue opposite the current Shell service station at the corner of Ramsgate Road and Grand Parade. It was officially opened in 1959 by the Mayor of Rockdale, Harry Jones, and is still in use today.

Despite its success during the 1950s and 1960s, Ramsgate Life Saving Club was close to collapse in the early 1970s. It was not until 1975 when a local plumber, Bill Batley, became the club's president that the club's fortunes began to change. With a strong work ethic Bill was able to revive the club from the ground up. His encouragement of youth life saving allowed the club to grow from strength to strength. Within a few years Ramsgate Life Saving Club had become one of the strongest Nippers groups in the State. Throughout the swimming season, from October to March, youth life saving events such as beach sprints, flags, iron man events, surf swimming and novelty races are held for children between the ages of 3 and 15 years of age.

In 2002 the club's membership rose to 200. Bill continued as president until the following year. Bill's 28-year tenure as president of the Ramsgate Life Saving Club undoubtedly saved the club from folding. His longstanding selfless commitment to the local community deservedly saw him awarded Rockdale City Council's Citizen of the Year in 1999 and rewarded as a torch relay bearer in the lead-up to the Sydney 2000 Olympics. On 8 November 2009 Ramsgate Life Saving Club will celebrate its seventy-fifth anniversary. I congratulate Ramsgate Life Saving Club on its seventy-fifth anniversary and all those throughout the years who have given their time to such a noble cause. I wish them another 75 years of success.

Having been involved with a surf-lifesaving club 10 years ago, I know the importance of the work they do. I strongly recommend that all young people—and older people for that matter—do a course in surf-lifesaving and obtain their bronze medallion. Learning CPR and associated skills is also important. I know when my little boy, William, is old enough I am keen to enrol him with the Nippers. Surf-lifesaving is a very useful skill. It teaches one the discipline needed to deal with the surf and how to survive. The sea is awesome and must be respected at all times. Things can easily go wrong. I congratulate Bill Batley and thank him for all the wonderful work he continues to do. He is a well-respected member of the community; in fact, he is a local icon. Also, I congratulate the club members on their good work. I commend their work to the House.

ROBINSON COLLEGE, BROKEN HILL

Mr JOHN WILLIAMS (Murray-Darling) [6.02 p.m.]: Tonight I advise the House of the frustration and concern of people in Broken Hill about the future of Robinson College, an organisation that has been serving the community very well. Its future is threatened because of the proposed sale of its premises by Charles Sturt University. I shall give the House the chronology of events. University education in Broken Hill started in 1959 when the Broken Hill division of the University of New South Wales was formed at the rear of the technical college. People involved in metalliferous mining, metallurgy, mining engineering and geology predominantly received their tertiary degrees based primarily around the mining industry, and in due course mechanical engineering and electrical engineering courses were included in the education curriculum.

In 1964 the Vice Chancellor of the University of New South, Professor Baxter, visited Broken Hill and announced that a new college was to be built off Wentworth Road. This new college was called W. S. and L. B. Robinson College. The tender sum to stage one was £100,000, but Zinc Corporation, which was active in those years, contributed the money and donated the land. Therefore, the university provided nothing towards the college. In due course, the university successfully awarded 200 degrees between 1966, with seven men graduating in that year, and the last degrees being awarded in 1980.

The University of New South Wales then decided that it did not want to retain the facility and handed it over to Charles Sturt University, which proposed that the Mitchell College of Advanced Education, Riverina,

and the Murray Institute of Higher Education would jointly provide tertiary courses. The agreed sum for the transaction was \$1. Since 1998 the Robinson College has provided education to the citizens of Broken Hill. For example, 17 courses are provided in business and professional education; 13 courses for computers; 4 for photography and graphics; 18 for first aid, CPR and medical; 6 for hospitality; 9 for leisure; and 15 for occupational health and safety.

This college has supplemented education in Broken Hill, many of whom are retired, elderly people who wish to better understand computers. As a result, the college teaches a greater range of courses. As an indication of the importance of this college to the community, I handed the Minister for Education and Training a petition on behalf of my community. I note that the Minister is at the table and I acknowledge her support for community education. I am sure she has a view with respect to the proposed sale by Charles Sturt University and would agree that the loss of this facility would be a great loss to Broken Hill. The community does not have the financial means to buy the facility at the proposed price of \$1.5 million. It is a pretty poor act for the university to charge \$1.5 million for a facility for which it paid only \$1, especially when the community will lose such a wonderful adult education centre.

SOUTH WEST ITALO-AUSTRALIAN ASSOCIATION ANNUAL BALL

Mr NINOS KHOSHABA (Smithfield) [6.07 p.m.]: Recently I had the honour of attending the South West Italo-Australian Association [SWIAA] Annual Ball at Club Marconi. The ball is the association's annual major fundraising event, which helps raise funds towards the association's retirement village in Bossley Park. Fundraising for this village started 12 years ago by the former Mayor of Fairfield City and now Chairman of the SWIAA Board, Mr Tony Campolongo. Back then this project was a dream for many, and many thought that it would never be a reality. After a lot of hard work, lobbying and fundraising, the SWIAA Retirement Village was opened in December 2002. The village currently comprises the Marconi Village, which consists of 40 self-care villas and the SWIAA Gardens, which is a low-care aged facility for over 50 residents. The SWIAA Board is now in the process of building a new aged care facility, which will provide 20 high-care beds and 40 low-care beds, which includes beds for low-care dementia residents.

My electorate of Smithfield comprises approximately 3,000 families of Italian heritage. The Italian community is one of the longest standing ethnic groups in south-west Sydney. The Italian community has made a significant contribution to the cultural, social and economic life of south-west Sydney. It is inspiring to see the village and, indeed, our local Italian community still supporting its own members and providing this wonderful community facility, which accommodates so many of our retired residents from all nationalities. For this reason it is important to remember the retired and aged members of our community, who have helped our city and country, which we know and love today. That is why events such as SWIAA's annual ball are important for the continued growth of the village.

There were approximately 450 people in attendance at the SWIAA ball, including my parliamentary colleagues the Hon. Joe Tripodi, who is an Australian of Italian heritage from south-west Sydney, and Mr Nick Lalich, the member for Cabramatta and Mayor of Fairfield City Council. Due to the generous donations of the 450 guests, approximately \$40,000 was raised from the ball. Club Marconi presented a cheque of \$15,000 to the SWIAA Board of Directors, which will go towards further construction of the village. Club Marconi has been a supporter of SWIAA for the past 12 years and has been instrumental in the success of the association. Italians have always worked hard and are not satisfied with doing well just for their family; they want to help and assist the wider community. Through the efforts of the SWIAA board, Club Marconi and the many volunteers, the retirement village will continue to grow and provide excellent care for the aged and disabled in our community. SWIAA is to be commended for its very successful contribution to the community in south-western Sydney.

I take this opportunity to acknowledge the following members of the SWIAA board who have contributed their time and efforts to this great association: the president, Tony Campolongo; the vice-president, Charlie Barone; the treasurer, Graziano De Bortoli; the secretary, Debbie Feening, who is also the Chief Executive Officer of Club Marconi; board members Arthur Brotherhood, John Thompson and Nancy Messina; and club representatives Roland Melosi, Andrea Carnuccio and Marilyn Fetch. There are also many volunteers who have worked hard organising fundraising for the association over many years. I take this opportunity to acknowledge also Mrs Josephine Campolongo, who has been instrumental in organising fundraising for the association, together with Amelia Capogna and Sylvia Gava. These volunteers and board members have worked tirelessly to realise a vision that many thought would never be a reality. I congratulate all those people who contributed to this wonderful facility.

INTERSTATE BIRTH REGISTRATION

Mr GREG APLIN (Albury) [6.11 p.m.]: A new border anomaly has arisen in the Albury electorate, and this is surely the mother of them all. Up to 350 children who were born in Wodonga, Victoria, but registered in New South Wales have been placed in a legal limbo that makes them effectively "State-less". The New South Wales Government wants to transfer them to the Victorian registration system but has yet to work out how. The children affected are predominantly those from families living in the Corowa and Greater Hume shires. Children in the Albury city area are covered by a 1999 reciprocal agreement between New South Wales and Victorian Attorneys General. The situation came to light when Nicole Barber, who is from a well-known farming family at Hopefield in Corowa shire, submitted birth registration details for her daughter, Samantha, to the New South Wales Registry of Births, Deaths and Marriages. The registry wrote to her advising as follows:

The reciprocal agreement entered into by the New South Wales and Victorian Attorneys-General on 14 July 1999 allowed for a child born in the Wodonga Hospital, Victoria, to be registered in New South Wales provided the parents of that child resided in Albury Shire.

As you reside outside the Albury Shire area, the option of registering your daughter in New South Wales is unfortunately not open to you.

I have cancelled Samantha's birth registration that was entered onto our database and have arranged for a refund of fees paid for a copy of her birth certificate.

The letter also advised that the registry held a number of registrations for children born in Wodonga Hospital who should not have been registered in New South Wales, and advised the family that their sons, Hayden and Blake, were included in those registrations. One can imagine how this impressed the family, whose grandfather is a former Corowa shire councillor, shire president and mayor. Adding insult to injury, the New South Wales registry concluded by stating that the registrars of the two States were in discussion regarding how these registrations will be dealt with and the means by which they will be transferred to Victoria. Mrs Barber was advised to contact the Victorian registry for information on how to register her then two-month-old daughter.

Inquiries have revealed that this absurd situation could affect up to 350 children, and possibly more when one allows for retrospective registrations for parents living in areas now included in the Albury city area following council boundary adjustments in 2004. It all goes back to the decision by the Labor Government in 1997 to close the obstetric services unit at the Mercy Hospital in Albury. Wodonga Hospital in Victoria was to provide obstetric services for the residents of Albury and the southern parts of the Riverina. Much concern was expressed at the time because of the government and community funding that had been expended on upgrading the Mercy Hospital.

In making the service transfer announcement the health Minister of the day acknowledged that many parents in Albury and surrounding districts would prefer to give birth to their children in New South Wales and not have birth certificates stating that their children had been born in Victoria. It was an emotional issue. So the Minister said he would arrange for birth certificates to be issued indicating that the babies had been born in New South Wales despite the fact they had actually been born in Victoria. The obstetric services were moved to Wodonga in July 1998, but it took until July the following year for the agreement to be signed between the two States. In the interim, families desiring to register their children as New South Wales births were kept on hold. It was a frustrating, distressing time for parents.

Research reveals that the issue was raised with the Standing Committee of Attorneys-General some time after November 1995 and then referred to the Australasian Registrars of Births, Deaths and Marriages Conference for consideration and advice. This resulted in the suggestion of a reciprocal agreement, as provided in section 11 (1) of the New South Wales Births, Deaths and Marriages Registration Act 1995, and identical provisions in the Victorian legislation, to enable the New South Wales registrar to exercise the powers of the Victorian registrar and register, in New South Wales, the birth of those children of parents resident in Albury at the time of the birth who indicate their wish to do so. This suggestion was noted by the Standing Committee of Attorneys-General at its meeting in October 1998.

The agreement was finally signed in July 1999, and it identified Albury shire. This is not a term that has applied to the Albury city or municipality, so it is a curious description in a document predicated on a misrepresentation. The fact remains that there is only one maternity unit in the region and that facility is at the Wodonga campus of Albury Wodonga Health. The nearest New South Wales facility is at Wagga Wagga, so naturally most parents access the Wodonga unit. Leaving aside the question of the accuracy of the birth certificates, it appears logical that if New South Wales is prepared to register the births of children born to

parents living in the now expanded Albury city area, that privilege should in all fairness be extended to all New South Wales residents from the region giving birth at the Wodonga unit. I ask the Attorney General to intervene, apply equity, and give certainty to parents wishing to register their newborns in our State.

CENTRAL COAST REGION RECOGNITION

Mr DAVID HARRIS (Wyang) [6.16 p.m.]: I wish to speak about a subject that is near and dear to the hearts of people throughout my electorate and, I think I could say in a parochial fashion, of people throughout all the electorates on the Central Coast. That subject is: When will the Central Coast be recognised as a distinct region? Many people do not realise that currently the Central Coast, in terms of both Federal and State governments, does not stand alone. With regard to education, for example, the Central Coast is part of the Hunter-Central Coast region. The Central Coast got a little bit of a look-in during the last redistribution. It used to be part of the North Sydney-Central Coast region but it was re-categorised as a subregion, with a subregional director. That was a bit of a move in the right direction, and it was good that the Government made that shift many years ago. But it is now time for the Central Coast to move to the next level and ensure that we are a distinct educational region.

It is a similar situation with regard to health. The Central Coast is part of Northern Sydney and Central Coast Health. While there are definitely some good economies in terms of sharing across a network of that size, making sure that people can access various services, I know that people on the Central Coast are extremely passionate about the area having its own distinct health region. Looking through all the government departments and agencies, including the Roads and Traffic Authority and many others, we can see that the Central Coast is in the same situation. Because of this—and people say this to me all the time as I travel around the electorate and attend various meetings—we believe the Central Coast misses out because we are always part of another region's figures and not considered to be a separate entity. Many people are not aware that the population of the Central Coast now exceeds 350,000. That is more than the population of the Illawarra, which is about 300,000, and more than that of the Australian Capital Territory. But still the Central Coast is not recognised as its own distinct region.

At the recent State Plan forum held at Mingara Recreation Club, which the Premier attended, the community made its feelings on this issue clear. I was very pleased that the Premier took those issues on board and made a commitment to examine the current situation. I think it is very important. Even the Bureau of Statistics does not recognise the Central Coast as a distinct region. Gathering statistics on unemployment and so on involves an extra step to extrapolate the figures for our region. At a local level, people are starting to feel as though they belong to a region. I am lucky. I grew up on the Central Coast. I was born in the southern area of the Central Coast, at Gosford Hospital, and I lived in Woy Woy. I now live at Hamlyn Terrace in the north of the Central Coast, which is in the seat of Wyong. I have always felt part of the Central Coast—not from the north or the south. A lot of the people now moving to the area know it only as the Central Coast. They do not consider themselves as living in either the Wyong shire or the Gosford shire.

Last Monday, Minister for Tourism Jodi McKay launched a fantastic new tourism strategy called "Come to the Coast". The strategy has a real Central Coast feel and for the first time I think both the northern and southern areas of the Central Coast were recognised. It shows that the region is growing up and is ready to be recognised in that way. There are some very good institutions on the Central Coast, including the Central Coast Academy of Sport, one of the premier sports academies in New South Wales, which offers excellent leadership to its athletes; the Blue Tongue Stadium, which the Central Coast Mariners, among other teams, plays from—for the first time the Central Coast has a team to call its own—and Surf Life Saving Central Coast, which is one the strongest surf life saving branches in New South Wales. On many different levels the Central Coast is already acting as a region, but we need government recognition of that fact.

I think it would help if the Wyong Shire Council and the Gosford City Council worked together more closely on regional projects. That is not a criticism, and I am not pointing the finger of blame at either council. It is merely an observation that the Central Coast needs to prove that it is operating as a region. The first step should be to set up a working party to define a set of goals to establish regional identity. Everyone you talk to on the Central Coast believes it should be a region, and I hope the Government looks seriously at making that happen.

LIN FAMILY MURDERS

Mr GREG SMITH (Epping) [6.21 p.m.]: I want to speak about a tragedy that occurred in my electorate that has received a lot of publicity. I will place on the record some facts about the Lin family murders.

I knew Min Lin as my newsagent in Rawson Street, across the road from my office. He delivered papers to our home each day. Sometimes on a Saturday morning I would see Min coming slowly down the road throwing papers through the open passenger window of his car—no fancy aerobatics for him. We would smile and wave to each other. On Saturday 18 July the paper did not come and the newsagency phone was constantly engaged. Later at the shop I saw bundles of newspapers piled up and a queue of customers collecting their papers, which were rolled up for delivery. But Min and Lily would never be there again.

We, the customers, were speculating that Min and his family must be sick. Later that day the radio news told us of the tragedy and the police took over Boundary Road where they lived. That night I spoke with a friendly highway patrol officer who was guarding the Norfolk Road end of Boundary Road. He praised the generosity of local residents who had offered drinks, snacks and meals all afternoon. I assured him that North Epping was a very friendly and close-knit community and I was not surprised by his experience. Nor was I surprised by the lead taken by Reverend Roger Green and his parishioners at All Saints North Epping Anglican Church in helping the community deal with the shock and sadness—a session was held with psychologists several days after the bodies were found. As usual, the Bendigo Bank also pitched in.

The Lin family house was secured as a crime scene for at least a week. The television media and newspapers carried many reports and photographs. Hundreds of bunches of flowers and messages were left outside the shop in Rawson Street and the Lin family home. The Chinese Australian Charity Group led by Benjamin Chow, AM, also held fundraisers and, together with the North Epping community, raised many thousands of dollars. That money is to be held in trust for Brenda. The school principals of the Lin children have also given great support. Susan Bridge, the principal of Cheltenham Girls High, together with the school community, is giving great support and help to Brenda. Peter Garrard, the principal of Epping Boys High, and Stephen Bloomfield, the principal of Epping North Public School, have all given great support and help, and they accompanied groups of students to the funeral.

We are still in the dark as to why this happened, how the attackers gained entry to the Lin family home and how the sounds of silence were preserved. A few weeks ago the shop re-opened, with the assistance of very experienced newsagents Percy and Janey Homeming. Min's father and sister Kathy were also helping in the shop—Kathy and her husband, Robert, found the bodies. The suffering of Min's mother and father has been palpable. At the funeral I gave a eulogy, which included the following:

This funeral of five innocent victims witnesses a tragedy for the whole community, not least the residents of North Epping, Epping and surrounding suburbs. We are entitled to feel secure when we go to bed for the night in our own home in a peaceful and friendly neighbourhood. Tragically for Min and his wife Lily, their sons, Henry and Terry, and Lily's sister, Irene, their sleep was ended prematurely by one or more assailants, intent on the foulest of murders.

We are haunted by the question why? Who would want to take the lives of such a loving family, such a peaceful and happy family, a family whose members served the community through their newsagency? What harm could those two boys have done, except perhaps to identify their assailants?

After seven weeks the brutal murders remain unsolved. Sadness and bewilderment remain. Our community has shown it really cares and we are all better for that. Despite various rumours, speculation, appeals and great concerns for Brenda and her extended family, we are still in the dark as to why this happened, how their attackers gained entry to the Lin's home and how the sounds of silence were preserved.

Prosecuting murderers was a regular event for me in the past. I learned to remove myself from dwelling on tragedies. This case is different. Like everyone, I continue to grieve.

I place on record my thanks to the Homicide Squad and the Eastwood Local Area Command for the magnificent effort they are putting into this case. I also thank all the people of North Epping and Epping, Federal member Maxine McKew, and all the others who have tried to help and are continuing to support the family.

ACTING-SPEAKER (Mr Thomas George): The House joins the member for Epping in extending its sympathy, prayers and support to Brenda. This case has touched people throughout the State.

WYONG DISTRICT MUSEUM GROUP

Mr GRANT McBRIDE (The Entrance) [6.26 p.m.]: Recently I was honoured to attend the thirtieth anniversary celebrations of the Wyong district museum group at the function centre of Our Lady of the Rosary Parish at The Entrance, where Ray Rauscher was honoured with life membership. Ray was a founding member of the museum group back in 1979 along with other members of the inaugural committee, which included

President Gwen Clarke, Vice President Doug Spratt, Secretary Vera Butler, and Treasurer Jean Braithwaite, plus Helen Marsonet, Elizabeth Belshaw and Jack Gear. The first meeting of the group was at Wyee Hall, where the society was started with a \$1,000 donation from Vince Holmes of Toukley.

The first museum building was the All Saints Church in Tuggerah from 1979 till 1991. The growth and future success of the museum group was assured in 1991, after years of lobbying, when it acquired and moved its operations to Alison Homestead in Wyong. Alison Homestead is one of the oldest buildings in Wyong, established in 1875. William Alison settled there and then passed it on to his son Charles when he married the granddaughter of Blue Mountains explorer William Cox. The Alison family moved out in the 1890s and the property had various owners until Alfred Pearce purchased it. The Pearce family ran the property as a market garden for 60 years until 1991 when the society moved in and set up the museum. The historical museum is set amidst two hectares of lawns and gardens with picnic facilities. Each day a guided tour is conducted through the gardens and the seven historically displayed rooms, and visitors can walk down memory lane.

Other life members of the society include Gwen Clarke, Bruce Russel, Marjory Russell, Elizabeth Belshaw, Joan Barker, Michael Kennedy, Sheila Robson and Phillip Morley. Ray said that he was privileged to be included with such a distinguished group of volunteers. He also said that the committee was very enthusiastic and that in those early days there was a lot to be done. The historical group is one of the fastest-growing societies in our area and has a proud tradition of preserving and presenting large, comprehensive collections of research material covering the settlement and history of Wyong shire from 1825 to the present. The records reveal the lives of the first European settlers in the area and the timber getters who supplied railway sleepers for the Sydney to Newcastle railway that passed through Wyong in 1889.

The establishment of the railway started the significant expansion and development of the Wyong and The Entrance areas, which further increased with the opening of the freeway in the 1960s and the electrification of the rail services during the Wran Government. Ray Rauscher is the first Wyong City Council social planner to be awarded life membership. It was fitting that Wyong Mayor Bob Graham presented him with his award. My colleague David Harris was also present at the function. David is now a member of the society and, as a member, he has made a commitment to volunteer many hours to this community service. Current chairman Phillip Morley was the master of ceremonies and I had the honour of welcoming the official guests. They included Pat Trott, who read the aims and objectives of the society; Lorna Clayton, who gave the Pioneers Ode; and the ceremony of remembrance bearers Joan Barker, Shirley Trigg, Tony Spratt, and Colette Tabuteau.

The society thanked Father Bill Stevens, parish priest of The Entrance, for the use of the parish function centre and the ladies of the Catholic Social Club Committee for their help in assisting with this special occasion. The role of community historians is one of overwhelming importance to the future of our community. We can create a plan for the future only by first studying the past. Our volunteer historians provide that vital information. I salute all those, past and present, who have committed themselves to this community service. It was very rewarding to be present at the celebrations, to hear about the history of Wyong shire and to be part of honouring the many volunteers who help enrich the lives of Central Coast residents and visitors.

POLICE INTELLIGENCE ANALYST POSITIONS

Mr RICHARD TORBAY (Northern Tablelands—Speaker) [6.30 p.m.]: It is with great pleasure that I address the House this evening. Many members would have attended community safety precinct committee meetings in their electorates. I regularly attend such meetings in the Northern Tablelands, where community representatives hear from the local police about crime statistics and crime-related issues. Apart from alcohol-related offences and some isolated spikes in incidents, on the whole there has been a reduction in most categories of crime across the New England Local Area Command. This success is attributed to good policing, more visible policing, the actions of quick-response units, sympathetic communities and councils, and an overall strategic approach. However, for the past nine months the officers of the New England Local Area Command have been operating under added pressure without one of the key positions they require to retain their strong record in combating crime.

When the command's intelligence analyst transferred in mid December last year, the department gave an undertaking that the position would be filled without delay. It is now almost mid September and that position has not been filled. The New England Local Area Command is the largest of the 11 commands in the Western Division to be without this key position. Intelligence analysts were introduced to the New South Wales Police Force and attached to local area commands as civilian employees in the late 1990s. The concept was to support front-line police with data to help with their planning and tactical response to crime. Everything that I have

heard confirms that this initiative has been of the utmost value to our police. The analysts are responsible for operational, tactical and strategic intelligence assessments; risk assessments and trend analysis; target development and research; intelligence support for investigations into major crimes; and crime prevention strategies at a local level. They provide very important information and strategies.

In layman's terms, the analysts' skill in interpreting statistics and other data enables them to anticipate where crimes might occur, to keep track of the movements of known troublemakers, and to detect and even predict patterns of crime. This gives local crime managers a tactical advantage in planning operations. They rely heavily on the analysed data to help at all levels, from petty crime to large drug operations. Now, at the New England Local Area Command officers still have the statistics and the data but no trained expert to interpret them and to assist with their strategic work and planning. Police feel they are flying blind without this support and have lost the edge in combating local crime successfully.

I have been told that the Government has failed to fill the New England Local Area Command position because it is a civilian position and that the delay is due to State budget cutbacks. I believe the Darling River command, which is also in the Western Division, is also waiting to fill an intelligence analyst position. It would seem a dubious saving if incidents of crime increase and police managers and officers are left without a proven valuable resource to assist them with their investigations. It is also self-defeating, as on many occasions the New England Local Area Command operational police officers have had to be deployed to undertake analysis duties, thus depleting the front-line policing response. This is an unacceptable situation. The community shares that view very strongly. If the Government has adopted a strategy of not filling vacant intelligence analyst positions, it should inform the police and the public. I strongly suggest that nine months is too long to wait for this position to be filled at the New England Local Area Command. I urge the Minister for Police and the department to act immediately to remedy the situation.

ROYAL FLYING DOCTOR SERVICE

Mrs DAWN FARDELL (Dubbo) [6.35 p.m.]: I bring to the attention of the House widespread public opposition to the tendering of the New South Wales air ambulance contract. Although this contract may have been tendered in the past, the exemplary level of service provided by the Royal Flying Doctor Service and the flow-on financial benefits to its core services have convinced the people of New South Wales that this contract should be serviced exclusively by the Flying Doctor. I have received in my office in four days more than 1,000 signatures from people across New South Wales seeking that the tender process be withdrawn and demanding that the contract be retained permanently by the Royal Flying Doctor Service. I did not instigate this petition. Constituents of the Dubbo electorate and beyond phoned, faxed and emailed my office urging for a petition to be gathered to demonstrate to the Government the will of the people they represent.

The first 250 signatures that arrived were sent unsolicited by the concerned citizens of Lightning Ridge, who were appalled that the Flying Doctor might lose its air ambulance contract. An ill wind is blowing following a report from the head of the New South Wales Ambulance Service allegedly stating that the recent public rally in Dubbo was pointless. I do not think democracy is pointless. Some people should be reminded that the Government serves the taxpayers; the taxpayers do not serve them. They should be reminded who pays their substantial salaries. The taxpayers of this State do not believe an alternative contract provider could supply a service better than that provided by the Royal Flying Doctor Service. They are extremely worried about the financial implications for the Flying Doctor's broader services if it loses this contract.

The Royal Flying Doctor Service survived financially before it took on the air ambulance contract and insists that its services will continue regardless of the tender outcome. But the people of New South Wales see no sense in handing this contract to a private company, which will funnel the profits of this taxpayer-funded service back to its Singapore-based shareholders. They know that if the contract is kept with the Royal Flying Doctor Service all profits will go directly to paying for vital health services for those who live in and travel through our vast outback. As Janet Noble from Eugowra put:

Commercial organisations have a duty to shareholders, whereas the RFDS uses any profit to go back into improving the service.

The Government would do well to listen to the everyday voices of reason from people who have been contacting my office in droves angrily rejecting the air ambulance tender process. I will forward these letters, emails, faxes and petitions to the Premier so that he can see for himself how unhappy the people of New South Wales are about this situation. Should the Royal Flying Doctor Service lose the air ambulance contract to a foreign-owned, profit-motivated private company, I assure the Government that it will lose votes—and not just in safe National party seats.

Tens of thousands of people in Sydney and other parts of the State support this service with ferocious loyalty. They will hold this Government to account if the Royal Flying Doctor Service loses this vital funding source from the air ambulance contract. Stephen Knox is one of those Sydneysiders who has joined the Royal Flying Doctor Service campaign. Mr Knox organises the annual Flying Doctor Outback Trek, which has raised nearly \$16 million over the past 20 years for the Flying Doctor. Most of the trekkers who have so generously raised these vital funds during these outback adventures are not country people. They are city-based voters, and they want the air ambulance kept in the Flying Doctor's safe hands. Mr Knox says:

The RFDS uses these commercial contracts for the ultimate benefit of the Australian community.

With less money something must suffer and the Service will need to go cap-in-hand to Government to ask them to pay for that which they have previously paid for themselves.

As vitally important as these aspects of the contract are, there is also the matter of public perception.

It may in fact be the most important aspect of all. Careflight has suffered a large fall in its fund raising efforts because previous supporters believe that they are supporting an overseas company.

Exactly the same thing will happen to the Royal Flying Doctor Service. It will be a double whammy: additional costs due to poorer buying power and a reduced level of donations because people no longer believe their money is going to the Flying Doctor. Mr Knox goes on to say:

If the NSW Government do what their Victorian counterparts have done and choose a commercial operator over the RFDS, they might save some money in the short term but it will come back to bite them in a very painful place.

They will be faced with one of the greatest Australian icons losing financial support and having to reduce services to cope.

We all understand that the State is cash-strapped, but I urge the Premier not to sell out the people of western New South Wales to the cheapest bidder. Any health decision that is reduced to a crude commercial bottom line is bound to sell communities short. I urge this House to support the calls of the people of New South Wales to toss this tender and stick with a proven and respected service of the Royal Flying Doctor Service in supplying this State's air ambulance contract.

Private members' statements concluded.

OCCUPATIONAL LICENSING LEGISLATION AMENDMENT (REGULATORY REFORM) BILL 2009

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

CRIMES (FORENSIC PROCEDURES) AMENDMENT (UNTESTED REGISTRABLE PERSONS) BILL 2009

Bill received from the Legislative Council and introduced.

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

ASSISTANT-SPEAKER (Ms Alison Megarrity): Order! It being before 7.00 p.m., the House will now proceed to the matter of public importance.

PUBLIC TRANSPORT

Matter of Public Importance

Ms DIANE BEAMER (Mulgoa) [6.41 p.m.]: It has been a very busy year for public transport delivery in New South Wales, and I know the House will enjoy hearing about the Government's progress in this area. The New South Wales Government is getting on with the job of improving public transport, stimulating growth, investing in infrastructure and creating jobs. In November last year we announced that we would deliver 300 new buses for commuters. In June the first bus in service was delivered in the north-west and last week the sixtieth bus rolled off the production line. That is right: Since June, 60 buses have been delivered and they are hitting the roads for commuters across Sydney, the Central Coast, the Hunter, Illawarra and the Blue Mountains. This means more seats, more services and, in some cases, new bus routes. Many of these buses are being built right here in New South Wales and the Government's investment is creating 400 new jobs for bus drivers, 150 new jobs for bus builders and increased job security for the bus construction industry.

The allocation to Hillsbus in the north-west will create around 170 jobs, 30 of which have already been filled. All 300 of the Government's growth buses are on track to be delivered by the middle of next year. In addition to delivering new buses for commuters, the Government is carrying out the most comprehensive reform of bus networks in more than thirty years. Reviewing our bus networks is vital because it means we are delivering the best possible outcome for commuters. Bus network reform is a detailed strategic process. These reforms are based on evidence that patronage will be increased and better services will be delivered. Any changes that are made are done following a comprehensive community consultation. Everywhere we have introduced new networks patronage growth has exceeded that of other networks.

What is the Opposition's policy on buses? It is nothing. The Opposition does not have a policy on buses, and it has been that way for years. In fact, at the 2007 election the member for Willoughby, the Opposition transport spokesperson, failed to take a single transport policy to the electorate—not one policy. The member for Willoughby still does not have a policy on buses: Not a single commitment to bus delivery; not a single commitment to bus network reforms; not a single commitment to anything at all to do with buses. As I said, we carried out a comprehensive review and in my area we went out to the community. All the things I put to that review on behalf of my electorate were taken into consideration, and other things were added. For example, and thankfully, the new employment zone at Erskine Park will have a link road delivered very shortly by this Government, and it will receive a new bus service from St Marys station. All of those things were taken into consideration when the Government reviewed what was needed in western Sydney.

The fact is that, unlike the whingers on the other side of the House, every single day the Rees Government is getting on with the job of making transport services better for the people who rely on them. And we are not just investing in buses to create jobs and improve services for commuters. We are pushing forward with a massive investment in rail infrastructure and rolling stock. The Government's \$3.6 billion investment in 626 PPP carriages is the largest order of rail carriages in Australia's history. These rail carriages are injecting around \$200 million into the Hunter economy and creating 300 jobs. The first stage of the South West Rail Link is underway despite the Opposition suggesting otherwise.

This year's budget allocation was \$804 million for stage one of the project. In the House today we heard the Opposition say the project was not starting. That \$804 million is delivering to the south-west a new rail link, and we will continue the allocation of funds in future budgets. The rail link will allow for increased and more reliable train services through the construction of a rail flyover north of Glenfield station and it will provide additional signalling works, new systems and new track. Our Clearways program is also moving forward and improving services for commuters. Key milestones for the \$344 million Cronulla line duplication have been met and are making a difference for passengers in the Cronulla region. New lifts are operating at Kirrawee and Woolooware—both stations have had their platforms upgraded—not to mention all the other significant work underway as part of the project.

Our trains are running at 95.4 per cent reliability against a benchmark of 92 per cent, and that is at the same time that record numbers of people are using the rail system. This result is a credit to front-line rail staff right across the network. You cannot have it both ways. You cannot say the rail system is failing but more people are using it, which is what we hear from the Opposition time and time again. We hear that the trains are overcrowded; they are not running. That is not true. If they are overcrowded and are not running they are very popular! The Opposition should go out to our railway stations, have a look at on-time running and understand that more and more people are turning to our rail system.

We introduced a customer charter to set clear targets for CityRail staff so that we can improve the safety, reliability and cleanliness of our rail network. The Government's spring-clean of hot-spot stations is underway with Penrith station being blitzed last week and Meadowbank station being blitzed this week. This \$2.4 million cleaning package is delivering new roving cleaners on trains and a cleaning blitz for stations across the CityRail network. We are listening to the people of New South Wales and we are delivering transport services—buses and rail. As I have said, it has been a very productive year for public transport in New South Wales. Today I have touched on some of the things the Rees Government has delivered recently.

Ms GLADYS BEREJIKLIAN (Willoughby) [6.48 p.m.]: I appreciate the opportunity to contribute to the debate this evening. I regret I have only seven minutes in which to do so. I propose to respond directly to the issues raised by the member for Mulgoa and to address many of the fallacies she has brought to the Chamber this evening. Firstly, I refer to the Government's announcement about providing 300 new buses. That is poor compensation for the fact that it failed to build much-needed rail links to both the north-west and south-west of Sydney. Buses play an important role in our transport network but they should not take the place of

much-needed rail lines in the north-west and the south-west. The State Government, by its own admission, has forgone important rail links and thinks it can sell to the public the replacement of buses as the only solution. As I said, buses play an integral role in our public transport delivery but they cannot replace the value to the community of the construction of north-west and south-west rail links.

Similarly, the member for Mulgoa mentioned the review of the bus network. I have had nothing but complaints from residents across Sydney about the reviews, about inadequate consultation, about the loss of many loop services in suburbs because the State Government does not have enough buses to run on the main peak-hour routes. I met with some residents from Parramatta a few weeks ago who took two buses and a train to meet me in my electorate office to tell me about their concerns. They are but one example of so many people across Sydney who are upset about the Government's failure to address their issues in relation to bus services and public transport.

The member for Mulgoa also mentioned the arrival of 626 carriages at some date in the future. This project has already experienced massive cost and time blowouts. Yet again this summer, one-third of the trains on the Sydney network will not have air conditioning. People travelling from the member's electorate and further out will yet again experience huge inconvenience. The State Government is embarrassed that it cancelled the south-west rail link. Despite what members opposite say, the Government does not have the money to build it. The money allocated to the south-west will not be enough to construct the rail link. The Government cannot admit that because it is embarrassing, but it is the truth.

Members opposite talk about reliability and on-time running. I draw to their attention to the fact that the Government's own website states that the western line has achieved on-time running rate of only 57 per cent. That is the figure stated by CityRail; it is not my figure. The member for Mulgoa also mentioned an increase in public transport patronage. We have experienced an increase, but it has been far less than the increases experienced in Queensland, Western Australia and Victoria. The average patronage increase in those States is up to 20 per cent; the New South Wales increase is only 2.5 per cent.

People are desperate to use public transport, but this incompetent Government does not provide adequate services. The last rail timetable released in 2005 had 416 fewer daily rail services and the last bus timetable released had 1,500 fewer weekly bus services. That massive cancellation of services is part of the reason for the extensive overcrowding on public transport. We have fewer services today than we had four or five years ago even though we are going through a financial downturn. Households are feeling the pinch and they want to use public transport and avoid road congestion. Regrettably, the State Government's litany of failed public transport projects means that it is impossible for people to abandon their cars and to use public transport.

I note that the member for Londonderry is in the Chamber. I am sure that his constituents are telling him every day about the rail improvements they want to see in his electorate. However, the State Government has turned its back on the people who use the CityRail network. The State Government's solution is to forget the people who use the network, the massive overcrowding and the rail links that should be built. Instead, it has decided to build a new metro line to Rozelle. The member for Mulgoa mentioned the so-called spring-cleaning blitzes on our stations. They should be ongoing; we should not need a media stunt to have our stations cleaned. I was disturbed when I obtained through a freedom of information request the most recent data detailing the number of complaints about lack of cleanliness on our stations.

I now turn my attention to the Government's failed priorities in public transport. The State Government thinks it is feasible to invest \$5 billion in a Rozelle metro line, thereby turning its back on commuters in the north-west and south-west. The member for Mulgoa's constituents experience overcrowding on the western line on a daily basis, but the State Government is turning its back on them. It wants to start from scratch and forget about all the problems. It is now building a metro line to Rozelle that no-one wants. The communities of Pyrmont and Rozelle rallied outside Parliament House today to tell the Government that they do not want the metro line. The Mayor of Leichhardt was also there representing his community's opposition to the project and Labor Party branch presidents were whispering in my ear about their opposition.

The State Government has turned its back on the people who use the current network. Instead, it is building a metro that according to the Minister for Transport will be running at 13 per cent capacity during the morning peak. The Government says that the line will be the spine for a future metro network, but it has not budgeted for that network. It will not happen under this Government, which has announced and reannounced nine rail line projects in the past 15 years that have amounted to nothing. The only rail infrastructure it has

managed to provide is half a project. We were meant to have the Chatswood to Parramatta rail link; it is now only the Chatswood to Epping rail link. That project is still experiencing many problems, which is another demonstration of the Government's inability to build major transport infrastructure projects.

This State Government has the wrong public transport priorities. It thinks that a few kilometres of metro line to Rozelle is a solution. That is the wrong priority. I am disappointed that members opposite are not representing the views of their constituents. They should tell the Premier and the Minister for Transport that they are wrong on this issue and that they should do what is in the best interests of the community and their constituents.

Mr ALLAN SHEARAN (Londonderry) [6.55 p.m.]: The Rees Government is working day in and day out to continue delivering better services for the people of New South Wales. We know that Australia—including New South Wales—is not immune from the economic situation. Far from it! The New South Wales Government understands that the people of this State are doing it tough. That is why it is investing in infrastructure that is creating jobs, stimulating the local economy and, most importantly, delivering better access to public transport.

Job creation through public transport is at the centre of the Rees Government's efforts to reduce the effects of the global financial crisis. Our public transport services are a key driver of apprenticeships in this State. RailCorp currently employs 300 apprentices, who are responsible for rolling stock rail network maintenance and the delivery of new infrastructure. Apprentices in State Transit comprise about one quarter of our 261 bus maintenance workers, who are responsible for mechanical works, body repairs and electrical works. The New South Wales Government supports our front-line workers and staff, unlike the Opposition, which has a reputation for bagging them. The New South Wales Government will keep working day in and day out investing in the State's future. We will keep working with our colleagues in the Rudd Government to create new jobs so that we can put New South Wales in the best possible position to deal with whatever the global economy throws at us.

I draw members' attention to commuter car parks. A short time ago I joined the New South Wales Transport Minister, the member for Penrith and our federal colleagues Anthony Albanese and David Bradbury in announcing the construction of a new commuter car park at Penrith. The New South Wales Government is matching the Federal Government's \$5-million commitment to build a 1,000-space multistorey car park for people in the Penrith region. That investment will create jobs in western Sydney and significantly boost the local economy. A new commuter car park will also be built for Cabramatta commuters. That is a great win for commuters in the area and I congratulate the member for Cabramatta for his tireless campaigning for that important piece of infrastructure.

The list does not end there. Construction is underway at a number of other sites: Holsworthy, Campbelltown, Morisset, Helensburgh, Tuggerah, Windsor and Glenfield/Seddon Park. Since last November, the Government has announced the construction of commuter car parks at Berowra, Emu Plains, Katoomba, Macarthur, Ourimbah, Quakers Hill, Wollongong, Woonona and Wyong. Preparation works for those car parks are well advanced, with site selections being finalised, land acquisitions underway, concept designs being worked up and tender panels being finalised. Last month the member for Mulgoa and I announced that 80 additional car parking spaces would be constructed at Werrington station and that a 500-space multi-storey commuter car park would be built adjacent to the railway station at St Marys. That will include additional disabled parking spaces, CCTV surveillance equipment and lifts.

The Government's commuter car park program is creating jobs in local communities across the greater Sydney region. The car park projects I have just mentioned will create local jobs, local economies will be significantly boosted and commuters will have better services. The program is providing better services for commuters and attracting much interest from construction companies. It seems that everyone is on board with this important work, except the Opposition transport spokeswoman and her friends on that side of the House. While the Government gets on with the delivery of better transport services and creating jobs across the State, the Opposition has done nothing but whine and complain. I can only assume that members opposite would prefer not to create any jobs or to invest any money in commuter car parks. But who would know? I certainly have not seen a policy from that side of the House on this very important issue. There is no vision opposite, no ideas and certainly no policy. There is no commitment, no spine and no intention of ever making the tough decisions that need to be made about public transport in New South Wales.

The Rees Government has no higher priority than creating, supporting and protecting jobs for working families in New South Wales. That is why it has the largest infrastructure investment program in New South

Wales' history and the largest infrastructure program of any State government in Australia. That is why we are supporting up to 160,000 jobs a year through a record \$62.9 billion building program over the next four years. While the New South Wales Opposition talks down our State and the front-line staff who work their guts out every day to deliver services, the New South Wales Government will simply get on with the job.

Ms DIANE BEAMER (Mulgoa) [7.00 p.m.], in reply: I will reiterate a couple of things I said when I first addressed the House on this matter of public importance, and they are about the south-west rail system. The budget allocated \$804 million to start the process of planning and building the south-west rail system. That is in our budget papers and we are delivering on that program. Remember what the member for Willoughby said about this, "It doesn't matter what they say." That is code for: I do not want to hear it; I would rather it not be there so I can complain, whinge, carp and harp about it. The truth is that \$804 million is being spent this year on the south-west rail system. It will help commuters in the south-west growth area because it will take them from the south-west corridors and through the Sydney rail network. With the Parramatta to Epping rail link, it will be the biggest rail project undertaken in this State for decades. It is in the budget because we know the south-west sector is going to grow. It is there in black and white, but no matter what we say we will not convince the member for Willoughby, because she does not want to listen.

Another thing the member for Willoughby wanted to talk about was the metro. The Leader of the Opposition has said the Coalition will scrap the metro. That is not going to happen; it cannot happen. It cannot happen because we will have let the contracts. We need to remember the metro is about delivering infrastructure in the central business district. Some people say it is politically based when the Ministry of Transport says it is a great policy. What do other people say? Again I mention Patricia Forsythe, the executive director of the Sydney Chamber of Commerce. She told reporters today:

For too long Sydney's CBD has missed out on transport infrastructure. Sydney metro will overcome some of the criticisms around Sydney.

She dismissed the Opposition's position that the metro should not be a high priority. This is the executive director of the Sydney Chamber of Commerce. She said:

Our message to the Opposition has been that there is a very strong case for the Sydney metro. You need to see it in terms of the opportunities that are presented as a result of this project.

The member for Willoughby says it does not matter what we say, but when the Chamber of Commerce says these things does it matter to her then? I assume it does, but does it matter to the Leader of the Opposition, who says he will tear up the contract? That is just a hollow bluff. That will not happen, and he knows it will not happen. The Property Council of Australia also backed the metro. The New South Wales executive director of the Property Council, Mr Ken Morrison, said:

This is a welcome step which will give investors, property owners and the general community certainty about the project and the station environments.

We can cop the criticism from the Opposition because our programs are based on the realistic needs of Sydney, and they get the backing of those whom one would not normally call Labor supporters. We know that Patricia Forsythe is not normally called a Labor supporter. We heard how our communities are reacting to the bus review. I have to say that my community had issues when the initial plans were put forward. People came to my office and told me of their concerns with this route or that route. I received a big delegation from one street that lost the services of a bus that was initially intended to go there. I made representations on their behalf and they were listened to. Not only was the bus route redirected into their street but the change delivered more buses and more services for my community.

We received more through my representations than I had anticipated. Everything I took to that review was placed in the new timetables and more came out of the review than I expected. I was exceptionally pleased for my community because they were listened to and thought about, and their representations will build better transport services. Today, having \$20 million spent in Penrith will be a great boon but the investment in the whole structure of transport services across the State will be a great boon for the people of New South Wales.

Discussion concluded.

**The House adjourned, pursuant to standing and sessional orders, at 7.05 p.m. until
Thursday 10 September 2009 at 10.00 a.m.**
