LEGISLATIVE ASSEMBLY

Tuesday 1 December 2009

The Speaker (The Hon. George Richard Torbay) took the chair at 1.00 p.m.

The Speaker read the Prayer and acknowledgement of country.

BUSINESS OF THE HOUSE

Notices of Motions

General Business Notices of Motions (General Notices) given.

PRIVATE MEMBERS' STATEMENTS

WEST WALLSEND PUBLIC SCHOOL SECURITY

EDGEWORTH PUBLIC SCHOOL BUS STOPS

Mr KERRY HICKEY (Cessnock) [1.05 p.m.]: I draw the attention of the House to safety and security at the West Wallsend Public School and the problems associated with bus stops at Edgeworth Public School because it is located on extremely busy and congested roads. The West Wallsend Public School grounds have been attacked on many occasions by persons unknown who graffiti tag buildings and other facilities. The school's parents and citizens association has written to my office on many occasions pleading with the Minister for Education and Training to intervene in the departmental process so that funds are allocated for the installation of security fencing. To date the Department of Education and Training has not considered it appropriate to supply and install security perimeter fencing for the school. That astounds me and those associated with other schools, because they have had security fencing installed after much less vandalism and many fewer intrusions. It is bizarre.

The vandals who frequent the area and take every opportunity to deface the school property see it as an easy target, but the department does not. The school has provided to the department and the Minister on several occasions photographic evidence of the extent and seriousness of the problems. However, the school community has been very disappointed with the responses it has received from the department through the Minister's office. The responses offer advice generated by officials within the department who do not seem to comprehend the importance of providing the required fencing sooner rather than later. The four responses that my office has received all state that the West Wallsend Public School is not being considered for the provision of security fencing this financial year but it may be considered next financial year. I would like to think that the department would applaud the school community for its endeavours to keep its school safe and devoid of inappropriate visits from graffitists and vandals.

The school community takes great pride in the school and being dismissed time and again by the risk management section of the department has taken its toll on morale. A risk assessment officer has attended the school on a number of occasions and has provided some fanciful strategies to minimise the vandalism problems. The best suggestion is that the neighbouring property occupants keep their eyes on the school grounds and contact the police if they see anything amiss. The school has had that strategy in place for many years, and it is effective to some extent if, and only if, the vandals visit the school in daylight hours and make enough noise to draw attention to themselves. I am sure that during the upcoming school holidays we will see the school attacked on a number of occasions and that the students, parents and staff returning to the school will be faced with the massive task of removing graffiti from buildings, playground equipment and a memorial wall in the school grounds that has previously been defaced. I call on the Minister for Education and Training to revisit the issue and provide funding for fencing around the perimeter of the school in the next budget period.

Edgeworth Primary School parents have raised a major issue with the children being subjected to what is a potentially dangerous situation with buses being boarded on Minmi Road. This could be rectified if the bus

bays were moved around the corner to a less congested street, with some engineering work undertaken to allow some of the current school grounds to be utilised in a way that is beneficial for the buses. Many parents have raised their concerns with me at meetings that I have facilitated across the Cameron Park, Edgeworth, West Wallsend and Holmesville areas. The level of concern is reflected by the number of constituents who have raised this matter and the length of time they have been raising it. To date they have been raising the matter for almost 12 years, and still the department is stonewalling the school community.

Maybe the Minister will take this issue seriously as the parents are concerned about the children's safety and it is only a matter of time before something happens that no-one wants. On numerous occasions I have driven past the school where the buses pick up the children. Literally hundreds of children are walking in this area and boarding buses. Minmi Road is a major road with an untold amount of traffic. It has traffic lights and warning lights. The issue is that school children are constantly walking out onto the road, and someone will be injured very soon.

Ms ANGELA D'AMORE (Drummoyne—Parliamentary Secretary) [1.10 p.m.]: I commend the member for Cessnock for highlighting the concerns of two of his local public schools, particularly with regard to security fences. We are all aware that the State Government has a security fence program. It is fantastic to see the local member, the parents and citizens association, the principal and the general school community working together to highlight that a security fence is important to this school. We all know that when security fences are put up they minimise the impact of graffiti because they stop access to school grounds. The member made the important point that a lot of graffiti is undertaken at night, which may make it difficult for surrounding residents to assist with looking out for the school. I hope the local member and the parents and citizens will receive priority in the next budget because they certainly deserve it.

The member also highlighted concerns about a bus stop at another public school. We all know that during the afternoon peak hour children coming out of school potentially spill over onto the roads. The member raised some important options for government departments to look at, including potentially moving the bus stop or making some amendments to ensure that the children are safe and that parents can be reassured, along with the local member and the parents and citizens, that the area is safe in the afternoons and in the mornings. I commend the member for highlighting those concerns in the Chamber today.

PORT STEPHENS ELECTORATE PROJECTS

Mr CRAIG BAUMANN (Port Stephens) [1.11 p.m.]: Today I will look back on the year that was in my electorate of Port Stephens—the achievements and the disappointments. And my electorate has had some great achievements this year. Recently we had a film crew get to work in Raymond Terrace filming scenes for the coming movie *Tomorrow When The War Began*. It was no mean feat. King Street had a massive facelift as it was transformed into a movie set, and the street where my office is located was closed for a number of nights as a crash sequence was filmed. From all accounts the filming was a success and the crews were very happy with how welcoming our community was. The film, which is based on the cult books by John Marsden, will certainly put Raymond Terrace on the map.

I note that a number of Port Stephens businesses had success at the recent New South Wales Tourism Awards. I commend Newcastle Airport, Moonshadow Cruises and Wanderers Retreat, which all received gold medals in their categories, and Nelson Bay's Halifax Holiday Park, which won bronze. But when we look at the Government's performance in Port Stephens, it is not so positive. On 2 December 2008, exactly a year ago, I made a private member's statement about my hopes for 2009. Unfortunately, thanks to this Labor Government's incompetence, laziness, infighting, financial mismanagement and complete lack of regard for regional New South Wales, it looks like I will have to make the same wishes all over again. The first relates to the Raymond Terrace police station. This time last year I told the House:

> We have received guarantees—and funding for the new station is still available in the recent mini-budget—but there can be no better guarantee than seeing the first sod turned and the first brick laid.

Well, no sod has been turned. The development application has been approved, but a reported delay in the tender process means that the officers will not relocate to the temporary station until next year. That makes the 2010 completion date very difficult to achieve. Another wish from my 2009 wish list was for the new Nelson Bay ambulance station. I said:

> I hope 2009 will bring a final decision and the start of construction of the new station—to bring some improvements to the unacceptable level of health care in Port Stephens.

That was not an outrageous wish. After all, the Government had originally committed to finish the station in mid-2008. But more than 12 months after the upper House inquiry recommended that a new site be found, and after I appealed for action more than 20 times in this House alone, last week finally saw some action from this otherwise hibernating Government. A development application has been submitted to Port Stephens Council. It is about time. But, given that nine months have passed since the development application for the police station was approved, sadly, I do not think our hard-working ambulance officers will be moving into their new station any time soon. Last year I also stated in a private member's statement:

> But more than anything else I hope 2009 brings a real and firm commitment by the New South Wales Labor Government to upgrade the Tomaree Community Hospital.

That has become another disappointment for the Port Stephens electorate this year, given the Government's revelation that it thinks services at Tomaree Community Hospital are adequate and outright refusal to look at investing in some form of an upgrade of local health services. I am sure that would differ from the views of local residents who use the hospital and the staff who struggle with a lack of funding and resources. The fact that the Government is spending close to $1 million a year—almost a quarter of the hospital's annual budget—on ambulance transfers to other hospitals should be a wake-up call to the Government that there is a serious waste of taxpayer dollars which could be better spent providing more services at the hospital.

A $1 million commitment in the State budget this year for the widening of Nelson Bay Road between Bobs Farm and Anna Bay was also fraught with disappointment, given that questions on notice revealed that there is no funding or construction timetable for the much-needed project. But the Port Stephens community has had some success battling government incompetence. The Government has agreed to fund a study with Great Lakes Council into how to fix the ailing river. That is a most welcome backflip from a Government that repeatedly said that the problems were natural occurrences. And, of course, there is the Tourle Street Bridge—one promise that the Government did succeed in delivering.

However, not only did this Government replace a two-lane bridge with a two-lane bridge; it will now spend $5 million on demolishing the old bridge and at least another $50 million to duplicate the bridge down the track, when an extra $15 million now would have built the four-lane bridge that motorists desperately need. Let us hope next year's year in review private member's statement will be a little more positive. I take this opportunity to wish all members, parliamentary and electorate staff and their families a very safe and happy Christmas and New Year.

Ms ANGELA D'AMORE (Drummoyne—Parliamentary Secretary) [1.16 p.m.]: I thank the member for Port Stephens for highlighting the filming that is occurring in his electorate. As he said, it will put Raymond Terrace on the map. It is fantastic that the community was able to attract that investment to the local community, and there will definitely be some economic spin-offs from that. I congratulate the businesses highlighted by the member that received tourism awards. The member comes from and represents a lovely area, and we all know the benefits that such awards provide to local businesses. I note that the member highlighted a number of concerns with some projects that have been undertaken in his electorate.

Sadly, the member said that the Labor Government is doing nothing in his electorate. However, the Government has allocated major moneys to the Raymond Terrace police station, the new Nelson Bay ambulance station and the local hospital. While the member has some concerns about the progress of these projects, it is important to note that they are progressing. Development applications have been approved and funding has been allocated. I stress to the local member that it is his role to work with government agencies and the relevant Ministers' offices to ensure that these programs progress. Sometimes they do not meet their time frames, but the fact is that these moneys have been allocated to his electorate. That shows that the Labor Government is not only servicing the Port Stephens community but also ensuring that these projects are undertaken. I thank the member.

PATHWAYS ADVOCATE AWARDS

Mr GRANT McBRIDE (The Entrance) [1.18 p.m.]: On Tuesday 22 September Mingara Recreational Club hosted the annual Pathways Advocate Awards presented by Youth Connection, the Australian Reptile Park and Domino's Pizza. The Pathways Advocate Program is part of the Department of Ageing, Disability and Home Care and Department of Community Services policy for supporting children and young people with a disability, which includes providing services and support. The program aims to have children and young people

with a disability live as part of a family and community so that they have greater opportunities to reach their full potential at all stages of their life. Through the program families will be sustained as supportive and nurturing units with strong connections to the local community.

Part of this program is to advance year 12 students with disabilities to attend vocational and educational training subjects through TAFE and other educational institutions and to be part of a 35-hour work placement program with local employers. Central Coast students attending the program were from Northlakes High School, Gorokan High, Brisbane Water Secondary College, Hopetown School, Kincumber High, Wadalba High, Lake Munmorah High, The Entrance College, St Peters Catholic School, Narara High and Henry Kendall High School. It was gratifying to see all of these schools participating in this great program that saw 43 students receive graduation awards in hospitality, retail and business services, construction, information technology, horticulture and automotive. I pass on congratulations to all the students who were part of this special program and celebrate their efforts in completing their courses. Well done to all of you.

The night was a success with Ashley George welcoming everyone, followed by an acknowledgement of country by Denise Markham, the official address by Youth Connections manager Maggie MacFie, a performance by the Gorokan Didj Group and the highlight of the entertainment of the night was when the Skools Out performers presented *Colourful Masks*. I want to mention all of these special young people as they presented a beautifully constructed ensemble of puppets, dance and song, which reflected their unique talents and their love for the arts and performance. I applaud the outstanding efforts of Hanna Wallace, Ashley Greentree, Elouise Appo, Adam Jones, Dylan Dawson, Lachie Exley, Daniel Tickner, Casey Caldersmith, Alexander Shepherd and Nicole Bracken. These students are part of the disability department's funded after school social networking program. Their parents, their teachers and their peers are very proud of them. They continually contribute to the community, they are a joy to all who know them and we can learn a lot from their enthusiasm and loving nature.

Many government programs come across my desk as member for The Entrance but I am most proud to be part of a government that applauds young people with disabilities. People with disabilities have skills and talents that can sustain all of us. We need to nurture these special young people, encourage them and work with them and be thankful that they contribute to all of our lives. The night continued with the presentation of the awards by David Abrahams, Chairman of Youth Connections, and personnel from the program including Willhelm Trappe, transition manager; Maria Kelly, financial manager; and Meredith Milne, regional manager. The night concluded with a performance by keyboard player Brendan Lewis. Brendan is a visually impaired student who is a self-taught highly talented pianist who presented one of his own compositions as part of his repertoire.

I am totally blown away by the potential and skills of young people on the Central Coast. However, this group of young people with disabilities has reconfirmed that today's youth is more than capable of continuing the prosperity of all Australians. Everyone associated with the program from the front office staff, teachers, helpers and the whole community benefit from targeted programs for people with special skills.

NURSING STAFF REDUCTIONS

Mr JOHN WILLIAMS (Murray-Darling) [1.22 p.m.]: Today I would like to talk about the Greater Southern Area Health Service cuts in nursing. Nursing staff figures confirm that the State Government is planning to cut the number of registered and enrolled nurses in my electorate. Under the proposal, unlicensed assistants in nursing who are not equipped with the same skills in the nursing profession will be replacing these nurses, who are so vital to our public hospitals and community health services. On the sites of Deniliquin, Finley, Berrigan, Tocumwal, Jerilderie, Hay, Hillston, Urana and Barham six registered nurse positions will be cut, along with 19 enrolled nurse positions. It is proposed that eight unlicensed assistants in nursing will replace these nurses. It is obvious from the statistics that my electorate will be on the receiving end when it comes to these proposed nursing job cuts. Under this proposal 72 per cent of the current nursing staff in my electorate will be cut.

I cannot comprehend the new lows this State Government has reached. How can these eight unlicensed assistants be expected to uphold the same standard and level of care undertaken by a group of 19 nurses equipped with wider skills and a broader knowledge base? Nurses, along with the community, not only in my electorate but also in other areas covered by the Greater Southern Area Health Service, are concerned about this nursing staff proposal. In total, the Greater Southern Area Health Service will lose 51 registered nurses and

55 enrolled nurses. Under this proposal only 52 unlicensed assistants in nursing will replace this group of 106 nurses. Has this inept State Government even considered the massive burden these 52 staff will be placed under to maintain the same level of care and standards upheld by a staff of more than twice that size?

There is also deep concern about the possibility under this proposition of having only one registered nurse and one unlicensed assistant in nursing on duty overnight. How could this be considered when multiple emergency cases can occur at any time? There is no doubt that such a big cut in staff can lead to a lower quality of patient care that is less safe than it currently is. This should not be allowed to happen. The disregard this Government has for regional and rural areas is disgusting and despicable, and this proposal is testament to this. I am not saying that the unlicensed assistants are not needed in the healthcare service. Like registered nurses and enrolled nurses, they have an important part to play in upholding high-quality and high-level patient care.

However, replacing registered and enrolled nurses with a small number of unlicensed assistants is not only putting the lives of the public in danger but is also demonstrating a pathetic and dangerous way of cutting costs in the Greater Southern Area Health Service. In addition, various reports show that maintaining a sufficient number of registered nurses leads to better patient outcomes. One such report is NSW Health's own report, the Duffield report entitled, "Glueing it together: Nurses, their work environment and patient safety". It stated:

> Skill mix (the proportion of Registered Nurses) is more critical to patient outcomes than hours of nursing provided.

I ask the health Minister to note the term "registered nurses". In addition, a quote by Lewis Thomas, MD, stands out in this report. It reads:

> My discovery, as a patient first on a medical service and later in surgery, is that the institution is held together, glued together, enabled to function as an organism, by the nurses and by nobody else …

This report outlines the importance of the staff. I urge members on the Government side to read it. In this place we often hear Premier Rees use the pathetic lines: Builders on this side—that is the Government benches—wreckers on the other. I often wonder how Government members can refer to themselves as builders when they take such irresponsible actions as this. I call on the Premier to demonstrate the supposed powers he has over this Government and ensure that this proposal is not allowed to occur.

Ms ANGELA D'AMORE (Drummoyne—Parliamentary Secretary) [1.27 p.m.]: I thank the member for Murray-Darling for highlighting some health issues in his electorate. He has raised the issue of registered nurses, enrolled nurses and assistants in nursing. I point out to the member that assistants in nursing cannot undertake the duties of registered nurses, so I am confused by what he is putting on record. Registered nurses have very clear duties in our hospitals, especially with the administration of drugs. An assistant in nursing cannot undertake those duties. I find it interesting that he is making the allegation that those assistants in nursing will be replacing registered nurses, which we know cannot happen.

I ask him to review the proposal, because anyone who knows anything about the health system will know that is not able to happen due to the legislative framework. He has talked about a proposal. He has not cited where that proposal comes from. He did not mention the New South Wales Nurses Association and what its position on this matter is. It is an association that represents the legal and industrial conditions of 50,000 nurses around New South Wales in both private and public hospitals and in our aged care facilities and agencies. I ask that the member work with the department and the Minister to work through this proposal, but I strongly state on record that registered nurses have very distinct duties and an assistant in nursing cannot do those duties. I am a bit sceptical about some of the things the member has put on record.

NEWLEAF COMMUNITIES, BONNYRIGG

Mr NICK LALICH (Cabramatta) [1.29 p.m.]: As many members of this House know, I have been a Bonnyrigg local for many years. I have lived for most of my life in that community and seen many changes over the years. Sometimes I have to take a step back and just ponder how far Bonnyrigg and Cabramatta have come over the past decades. It never ceases to amaze me! As time passed and the demand for housing increased, Bonnyrigg evolved into a mix of both public and private housing. For many years the Bonnyrigg community, along with Fairfield City Council, have worked very hard for the renewal of the Bonnyrigg estate. As the member for Cabramatta, I can say that we have delivered.

The result of the long process has been the evolution of Newleaf—the first public-private housing partnership project of its kind in Australia. The model in my electorate of Cabramatta is definitely the one that most States around Australia will adopt. Newleaf is now responsible for redevelopment, as well as tenancy management and maintenance and, significantly, community development. Almost 830 public homes will be

nearly tripled to approximately 2,300 new homes, of which 700 will be public housing and the rest will be sold to private buyers. We did not reach this milestone overnight—it has been a long, collaborative process for the entire Bonnyrigg community. That is what makes this process special—it really has involved the entire community.

As part of the renewal process, council worked with local residents and agencies to help identify local issues and aims. The aims of the renewal project were to provide better services, create new opportunities, build a stronger community and renew the physical appearance of the area. We have taken on board the feedback and views of residents in my electorate of Cabramatta. This has been done through a series of consultations and events that have contributed to the decision-making process. Fairfield City Council has supported the residents to participate in the renewal process. Sessions were held in English, Vietnamese, Lao, Spanish, Arabic and Khmer. Bonnyrigg is starting to thrive, and I want everyone to know about it.

The Newleaf Communities in Bonnyrigg will also create jobs for locals in the electorate. This means that jobs will be created in Cabramatta and kept within the electorate. This will contribute to the local economy of Cabramatta and will build a very important relationship with project managers and workers alike. Children and families who reside in the Newleaf Communities will enjoy cleaner and safer parks, open space and pedestrian networks with better facilities and lighting. The communities will embrace best practice in environmental design and meet changing needs as residents age or become less mobile. This year we also had the Bonnyrigg History Project, which gave residents the opportunity to look back on the past 25 years and to record this history for future generations.

Over the past two years, as the State member I have liaised with council to re-establish the Town Centre Committee. One of the key projects of the committee has been the development of a brand and vision for Bonnyrigg—that is, All the World in One Place, which recognises this unique and special place. I take this opportunity to thank those who have been part of this project and have made it happen. I especially thank the local community for its involvement and its cooperation in reaching this significant milestone.

HORNSBY ANTISOCIAL BEHAVIOUR

Mrs JUDY HOPWOOD (Hornsby) [1.33 p.m.]: I refer to a very distressing event that occurred recently in my electorate involving young people acting in a very unsociable manner for a couple of hours in Hornsby mall. A number of residents, including clients and staff from a nearby restaurant, have complained to me about the incident. I will read a letter to the editor, which states:

> November 18th 2009 6.50pm Hornsby Mall opposite Madison building. Youths *still* roam, drunk, or otherwise, out of control, and throwing punches. Earlier they invaded a restaurant, picked a fight with customers, and threatened others. Mothers with young children gingerly cross through the mayhem. Beer bottles were thrown and smashed.
> Numerous calls to local police, triple 000, are followed by numerous police cars, and police officers.
> Youths were picked up by police and released almost immediately.
> Later, one youth tries to tackle a police officer and is brought under control. The police round the youths up, four in particular, take their names, let them go, minutes later it's on again. The police again turn up, take names, let them go, and it's repeated.
> At approximately 6.30pm the mayhem turns real nasty. The same four youths stand in the mall brandishing bottles as weapons and threaten and intimidate patrons at a business. This occurs after the same four were searched and names taken by police.
> The police come again, nothing much happens, as the youth are now aided and abetted by local teenage princesses. They use their mobile phones to warn the roaming trouble makers the police are back.
> (Where are these teenage girls' parents?)
> More fights occur and another teenager is knocked to the ground. It's been going on for over two hours. The police come again. Westfield security comes again. No arrests were made.
> Restaurant workers are furious. Customers move inside or walk off. Some people are too scared to walk home through the mall.
> The beer flows hidden in back packs. The youths out of control and now clearly in charge of the mall continue to intimidate, threaten, and assault, with wild abandon.
> Another little princess advises her thug friend to remove his hat and shirt so he can't be recognised …
> Why are these thugs not arrested? There are any manner of charges to be laid.
> Has anyone heard of glassing from thugs brandishing bottles as weapons?
> Why do the police come and go endlessly and simply take names? Is there any real security in the mall to protect passers by or those walking the minefield?
> Cameras installed in one area of the mall simply allow thugs to move to another area not covered with cameras and proceed to intimidate, assault, and threaten?

The letter writer asks: Where is Hornsby council? What is the Minister for Police doing about this problem? The writer continues:

> There is anger and disbelief from bystanders as we watch, listen, and ring police, for over two hours.
> It is absolute out of control thuggery, intimidation, and mayhem.
> Westfield, council, Federal and state governments support more high rise, more developments, and more people … Drugs are sought and bought in and around the mall. Alcohol is easily obtained by older friends of the thugs …
> Do something, get out of your towers, get off your backsides …

He is referring to this Labor Government and definitely to the council. I was informed that the council has no security personnel on duty after 3.00 p.m. in Hornsby mall, which is owned and managed by Hornsby council. I was further told that Hornsby Shire Council's security budget was cut by $100,000 and that guards are present in the mall only from 11.00 a.m. to 3.00 p.m. The community is concerned about police resources, which are not sufficient to cope with the workload of the large local area command. Police officers are stressed by the amount of work they have to undertake and cannot always attend a scene immediately if they are in a far-flung part of the electorate.

These young thugs are only a small percentage of young people in the electorate but they spoil it for the remainder. The unsuspecting public are innocently going about their business and enjoying local amenities. The clients of adjoining businesses or children and families going from place to place may fall victim to this violence. Hornsby mall appears to be controlled by thugs, and I ask the Minister to respond to my extreme concerns. It is not good enough that this thuggery takes place in and around crowds of people. There is nothing to deter these youth from behaving in this way. It was impossible for people not to be extremely afraid. Businesses could not continue to trade normally while the fracas took place outside their doors, in restaurants and alongside medical centres in the lower end of the mall that leads into Hunter Street. Such behaviour is unacceptable, and I call on the Minister to do something about it immediately.

Ms ANGELA D'AMORE (Drummoyne—Parliamentary Secretary) [1.38 p.m.]: The member for Hornsby has referred to a very distressing incident in her electorate. From time to time, youths behave in a most unacceptable way. All local area commands have forums and a committee structure through which concerns can be raised. That provides a great opportunity for the member for Hornsby to continue to work with her local area command, business community representatives, and other residents to deal with the problems at Hornsby mall, which is attracting youth antisocial behaviour.

We are fortunate to have a strong police force in New South Wales, with close to 15,600 officers—one of the largest police forces in the world. All our police officers work very hard on the ground to ensure that our communities are safe. However, there is an opportunity for the local committee to link in with the Hornsby Local Area Command to address this issue and to reassure the community that the police and the member for Hornsby are working to target these youths and to stop antisocial behaviour at the local shopping centre.

MOOREBANK INTERMODAL FREIGHT PROPOSAL

Ms ALISON MEGARRITY (Menai) [1.40 p.m.]: This is not the first time that I have raised my community's concerns about the prospect of an intermodal freight facility being developed in the Moorebank area, and I anticipate that it will not be the last time I raise the issue in this place and in other forums. As members may be aware, Sydney already has a network of intermodal facilities, including sites at Camellia, Yennora, Leightonfield and Minto, and a new facility at Enfield is set to double Sydney's rail intermodal capacity. However, it is well recognised that the predicted growth in the levels of freight and trade in the New South Wales economy may mean a need for even more rail facilities in future in order to reduce the growth in truck movements on our roads.

As part of the development of a national freight strategy, some years ago a Freight Infrastructure Advisory Board [FIAB] report identified a site on the western side of Moorebank Avenue, which is currently home to the School of Military Engineering and other Defence facilities, as a potential site for an intermodal facility. It was considered to be a preliminary option because the Department of Defence would need to commit to leaving the site before detailed investigations could begin. As I have previously advised the House, in late December 2007 Stockland surprisingly announced that it intended to build an intermodal facility on its site on the eastern side of Moorebank Avenue. The Stockland site literally borders many Wattle Grove homes and had been identified as a buffer zone for a potential intermodal to the west.

As the local member of Parliament, I have always said that my main concern about an intermodal facility, or any other large development for that matter, would centre on the potentially positive and negative impacts upon the everyday lives of members of the community. I have therefore maintained that it is important to wait until we are aware of the details of any specific proposal so that together the community can make a proper judgement about those impacts. Then, just as we were advised of a delay in the construction of the southern Sydney freight line, we became aware of a luncheon organised by the Chartered Institute of Logistics and Transport in Australia [CILTA], a transport industry lobby group, at a Campbelltown venue on 16 November. The promotional material for the luncheon provided two more surprises: first, attendees were promised "the Moorebank Future Development Vision"; and, secondly, the two guest speakers were to be Graham West, the member for Campbelltown, and Mr Michael Deegan from Infrastructure Australia.

Apparently Mr West is a member of CILTA and he advised those in attendance that he is an enthusiastic supporter of the idea because of industry estimates that it will create 7,000 to 8,000 jobs. Of course, Mr West is entitled to his opinion and is commendably concerned about unemployment levels in his electorate. I have since informed Mr West that my electorate is fortunate to have the highest levels of employment in New South Wales, so I would keenly support the location of the intermodal in his electorate, in closer proximity to his potential workforce. Mr Deegan, head of Infrastructure Australia, told the luncheon that in December 2008 Minister Albanese issued a directive to him under the Infrastructure Act to "facilitate development of an intermodal terminal at Moorebank in Sydney's south-western suburbs".

I thank Mr Deegan for supplying me with a copy of his overhead presentation on the day. One slide was headed "Why Moorebank?" The points underneath included that it was ideally located on the southern Sydney rail freight line that was under construction, that it was very close to the main southern rail line to Melbourne, to the M5 and M7, and to the third port terminal under construction at Port Botany, and that the Commonwealth already owned the land at Moorebank. The slide headed "Who are the players?" listed the local community, the men and women in the defence forces training for war, the State of New South Wales, and the nation, and noted that this intermodal terminal is vital to Australia's economic prosperity. The term "players", whilst a colloquial expression, does imply a game of some sort. This issue is not considered lightly by many residents who are concerned about the largest investment of their lives: a family home in a neighbouring suburb.

The term also implies that there can be winners and losers, but according to Mr Deegan it is a win-win-win situation. A slide of that heading stated that local community will get access to local jobs; there is potential for 2.5 kilometres of new river parklands accessible from Casula and Wattle Grove; defence will get new facilities; there will be fewer trucks on the M5; a dramatic cut in costs for moving each container, with flow-on benefits to consumers; and that New South Wales will get a lift in economic productivity. I am well aware of the "NIMBY" accusations that can be thrown about my concerns regarding the potential development of an intermodal in the Moorebank area. I acknowledge that there is a bigger picture and that my constituents, like everyone else, demand the availability of imported electrical products and everyday requirements such as groceries, fruit and vegetables. It is also hard to argue against the greater community benefits of having more freight travelling on rail than on road.

These are just some of the reasons that I have always maintained a considered and measured approach to this issue. As an elected representative I have also felt that, without the details of any specific proposal, I should not indulge in accusation and emotion that could create widespread fear and alarm at the further expense of my community. However, in light of recent developments, the time has truly come for all the available information to be put on the table by Infrastructure Australia. The fact that Federal Cabinet has not yet considered the matter may pose an impediment to full and frank disclosure by Infrastructure Australia. But based on even the general content of Mr Deegan's presentation at the CILTA luncheon, it is clear that a lot more could be done to inform our local community and Liverpool City Council about whatever proposal may be under consideration. Although we may be considered "players" by Infrastructure Australia, given the proximity of this proposal to our homes and schools, we are in fact significant stakeholders and should be treated with greater respect and full consideration.

TWEED ELECTORATE PALLIATIVE CARE

Mr GEOFF PROVEST (Tweed) [1.45 p.m.]: Once again, I am 100 per cent for the Tweed. Today I inform the House of a special initiative within the Tweed. Tweed Palliative Support Inc. purchased premises from Gillian Cooper to provide palliative care for the many cancer sufferers in the Tweed. Gillian, also a cancer sufferer, sold her beautiful property, Wedgetail Retreat, on seven acres in Dulguigan in the south of my electorate under very generous terms so that people suffering from cancer could have the necessary care and dignity in their dying days. No other place in the Tweed provides a similar service. At the official opening, and with her parents in attendance, Gillian received a certificate from Tweed Palliative Support, which stated:

> Without your vision and dedication "Wedgetail Retreat" would not exist to offer the terminally ill a place of beauty, dignity and support in their final days.

Tweed Palliative Support, led by Meredith Dennis, has been doing a sterling job. It has campaigned for many years and assisted many people. The service has a large group of volunteers, who do an exceptional job. This year they have supported more than 200 clients and their families. This number does not include people who have attended the Sunshine Days, the Bereavement Support Program or cancer support groups. The Tweed is a special place but, like in other areas, many residents suffer from different forms of cancer—a disease that causes great hardship for patients and their families.

Currently, the Tweed has 3,500 cancer sufferers. The Wedgetail Retreat is a wonderful facility where patients can pass away under professional care, supported by their families. Staff at the facility are very compassionate. Each time I visit the retreat I cannot help but be touched by the wonderful service and caring support they provide. Before the Tweed had the benefit of Wedgetail Retreat people in need of palliative care were admitted to hospital and often placed in wards with dementia patients, which was not a calm environment.

In recent times my good friend Rory Curtis and his lovely wife, Debbie, who are proprietors of the Good Guys, have announced their continuing support for the facility. I have spoken previously in this place about the wonderful work they do in the Tweed. They support many charities such as surf lifesaving and Neighbourhood Watch. Of his own volition, Rory Curtis raised $7,000 by donating a percentage of his sales to provide a much-needed patient transport buggy. The local newspaper stated:

> Rory Curtis, proprietor of The Good Guys Tweed Heads, said they are proud to continue aiding the Tweed Palliative support Inc., as they have been doing for more than a year.
>
> "It is always rewarding to see that our donations are providing a great benefit to the Tweed community.

I cannot speak more highly of Rory and his wife, Deb, and their support of Tweed Palliative Support, a vital service in the town. The staff at the Good Guys at Tweed Heads south continually go out of their way to raise money for that care service. In this case, Rory has indicated that the donations received could reach $11,000. The Wedgetail Retreat is currently open for support groups, but finding funding for the transition to the hospice is difficult and the site cannot be opened for palliative care until there is sufficient funding to employ qualified registered nurses. In that regard, I plan to approach directly the Minister for Health and the Minister Assisting the Minister for Health (Mental Health and Cancer) because similar facilities are available in the Tweed. Once again, the business community has come together for those less fortunate in our community. And I am proud to say that all of them are 100 per cent committed to the Tweed.

Mrs KARYN PALUZZANO (Penrith—Parliamentary Secretary) [1.50 p.m.]: I thank the member for Tweed for raising this most important matter of palliative care. All members in the House, and probably those in the other place, know that palliative care is a vital service in our communities. People at the end of their lives need care and special services. The member for Tweed referred to local businesses and their donations in support of community organisations. When the member makes representations to the Minister for Health I know that he will receive a favourable response. In all our communities there are many people who help out and donate to local services. I take this opportunity to mention Harry Stewart. For many years Harry raised money for the Nepean Medical Research Foundation. His wife was touched by cancer and Harry passed away last Friday from cancer. I extend my sympathies to Harry Stewart's family and I invite people to keep his memory alive by continuing to raise money for the Nepean Medical Research Foundation.

PENRITH CHRISTMAS CARD COMPETITION

NEPEAN HIGH SCHOOL

Mrs KARYN PALUZZANO (Penrith—Parliamentary Secretary) [1.52 p.m.]: Last night the finalists and winners of the 2009 Christmas card competition, which I held, were announced at a function at the Lakeside Restaurant, Penrith. I thank Vince Capolupo for offering his venue for the function. It was great for the community to see the wonderful venue at its best, with triathletes training and swimmers practising in the lake. I note that finalists from a number of public schools—including Kingswood, Jamisontown, Braddock, Emu Plains, Emu Heights, Lapstone, Penrith South and Glenbrook—were in attendance and, for the first time, from the IM unit from Penrith South. From the Catholic school system, students from Mary MacKillop, St Finbar's at Glenbrook and Corpus Christi at Cranebrook attended. From the independent sector, students from Penrith Christian School attended.

The 2009 finalists were joined at the function by previous finalists and a former winner. They included Sarah Mason from Emu Plains, who was a stage two finalist in 2007, and Ezekiel Matthews from Penrith Christian School, who was a finalist in 2008. Sophie McColl from Emu Heights Public School was the 2008 winner and a 2009 finalist. This year Mitchell and Ashley Hall from Emu Heights Public School were the first brother and sister finalists. This year's stage one winner is William Keast, from St Finbar's. The theme of his entry was "My Christmas". Those who receive a Christmas card designed by William will see Santa resplendent in red with a big, white, bushy beard, presents under a Christmas tree and William's house with a television and a decorated window. Well done, William.

The stage two winner this year is Hannah Davison from Lapstone Public School. The theme for her Christmas card is "Christmas Around the World", showing Santa driving a red ute with a kangaroo on its bullbar passing many houses. It is a very good design. The stage three winner is Hollie Boland. Her Christmas card theme is "Penrith Christmas", and it shows a panther on the prowl, Victoria Bridge and many of Penrith's focal points, with the Arms of Australia Inn Museum as its major component. The museum is one of the oldest surviving buildings at which coaches would stop after travelling long distances when their horses needed water. Many such inns were located along the route from Sydney across the mountains to the west. The Arms of Australia Inn still functions as a museum. Last Sunday I was at the museum for the annual general meeting of the Nepean District Historical Society. I commend all those involved in the Nepean District Historical Society and the Arms of Australia Inn Museum for their work. I will include that comment in my Christmas cards.

The Arms of Australia Inn Museum is situated very close to Nepean High School, which has become a creative and performing arts high school, as is Northmead school. It is networking with Campbelltown High School, which is already a performing arts high school. Northmead school has functioned as an unofficial creative and performing arts high school. Nepean is a comprehensive high school, but it is very close to public transport and has the facilities needed to qualify as a creative and performing arts high school. I commend Nepean, Northmead and Campbelltown schools for their work in bringing the creative and performing arts high schools to fruition in western Sydney. Nepean will receive its first student cohort in 2010.

I acknowledge Sarah Mason, who was a Christmas card finalist in 2007 and 2009. Sarah has been selected in the first cohort at Nepean High School for her visual arts ability. Nepean school students have access to the Joan Sutherland Performing Arts Centre, the Penrith Regional Gallery and the Lewers Bequest. From 2010 the school will have a very strong relationship with those two organisations. I wish Sarah Mason and the first student cohort at the creative and performing arts high school at Nepean my very best.

KU-RING-GAI NEIGHBOURHOOD CENTRE

Mr JONATHAN O'DEA (Davidson) [1.57 p.m.]: Having served previously as a local government councillor and now as a State member of Parliament for 2½ years, I appreciate more than ever the importance of local communities. Only a society that tackles its local problems and achieves consistently can progress. We need to be aware of those who require assistance along life's path as well as those who are particularly vulnerable or who have special challenges. Local neighbourhood centres help address such need. The activities of neighbourhood centres across New South Wales vary greatly; they depend on each community's needs and characteristics, current community priorities, and the availability of resources such as money, people, facilities and equipment, and other services.

I will refer to some of the main areas of operation of neighbourhood centres, and particularly to a local neighbourhood centre in my electorate. Neighbourhood centres research social needs in the community that are not covered by more formal services, and plan how to fill the gaps. In that sense, neighbourhood centres often act as a filter for ideas between policymakers and those with problems in the local community. The centres offer varied service development and delivery. Some 65 per cent of centres are involved in providing direct support to persons and families in need through interviews, counselling, emergency relief and other services. Many community activities are carried out at neighbourhood centres, including community information, education and advocacy activities.

Today I wish to focus particularly on the Ku-ring-gai Neighbourhood Centre. It is a wonderful local organisation in my electorate of Davidson and on Sydney's North Shore. I recently attended a community event to acknowledge and celebrate the thirtieth anniversary of the Ku-ring-gai Neighbourhood Centre, at St Ives. The centre serves the area from Wahroonga to Roseville and has grown from a handful of volunteers to over 180. The centre provides a range of services to our elderly, in an effort to keep our elderly in their own homes for as long as possible.

Neighbourhood Aid volunteers drive clients to medical appointments and often form meaningful relationships with them. The centre also organises various social events and outings such as coffee mornings, and theatre and cinema outings. The mahjong group meets once a fortnight. The information centre provides information on almost anything, from bus timetables to children's services, and the friendly volunteers assist the public with tasks such as Internet inquiries, photocopying and laminating.

Residents love the pre-loved books, which are sold to help with funding. The centre has a wonderful English conversation class for those wishing to improve their English. The classes are well attended and it is an

ideal way for newcomers to make friends, improve their English, and learn about the Australian way of life. A justice of the peace service is available daily to the community. I understand the shopping bus service attracts a lively and happy group of shoppers who congregate in the centre for a cuppa and a chat after they have finished their shopping.

Morrison Hammond has served as President of the Ku-ring-gai Neighbourhood Centre for the past six years. At the thirtieth anniversary celebration held recently at the St Ives Shopping Centre, Morrison introduced me to a number of volunteers who have been associated with the centre for the entire 30 years since it was founded. I commend the tremendous efforts of all New South Wales neighbourhood centres, including Morrison Hammond and his team of volunteers at the Ku-ring-gai Neighbourhood Centre, and I congratulate the Ku-ring-gai Neighbourhood Centre on 30 years of local community services.

DRIVER REVIVER PROGRAM

Mr PETER BESSELING (Port Macquarie) [2.02 p.m.]: As we move into December and head towards the New Year, most community members will be preparing to spend time with friends and family during the Christmas holidays. I take this opportunity to urge people to celebrate responsibly, and if travelling to do so in a safe and patient manner. Whilst many people will be taking time off, many in our community will be called upon during this period to be vigilant in their work through agencies such as the New South Wales Police Force, NSW Fire Brigades, the Ambulance Service, and the doctors, nurses and staff at our emergency departments across the State. Our collective thanks certainly go to these groups who achieve great work at a time when most of the community are celebrating or taking the opportunity to enjoy time off work.

Today I wish to highlight the great work of another group of people who, along with the Rural Fire Service, the State Emergency Service and our local surf lifesavers, forego the benefits of the opportunity to enjoy the Christmas holidays but who do so for the sole benefit of the community through their generous volunteer efforts. Each holiday season up to 220 Driver Reviver sites open right across Australia, including a very successful operation along the Pacific Highway at Sanorex, just west of Port Macquarie. Last Saturday the volunteers associated with this Driver Reviver site celebrated at an early Christmas gathering, as during the coming holiday period many of these volunteers will be manning the site and dispersing tea, coffee and other refreshments for the benefit of passing motorists and the safety of our communities at large.

The Hastings Driver Reviver Centre also celebrated another significant milestone of 20 years continual service to our community, having responded to a call from the Roads and Traffic Authority and New South Wales police in 1989 for a site to be established in the wake of the tragic circumstances surrounding Pacific Highway deaths as a result of driver fatigue. This was further highlighted by the devastating impact on the community of the Clybucca bus fatalities in December that year. The original site consisted of one tent and one portaloo, with the support of volunteers from the Country Women's Association, Lions, Rotary and the State Emergency Service volunteers who continue to play a large role in the operation of the Driver Reviver program.

The following year, the site was relocated along with the more salubrious facilities of two tents and two portaloos to the current site location at Sancrox, and through the hard work of many of the volunteers, community donations, and a grant from the State Emergency Service, the site now boasts permanent toilet facilities, a small operational office for the administration of volunteers, and a covered outdoor area for the benefit of motorists. The volunteers are supported by local Rural Fire Service groups, who often are called upon for the late-night shifts, and happily enjoy much-appreciated sponsorship from the State Emergency Service, Roads and Traffic Authority, Nestlé, Bushells, Amotts, Hastings Valley Dairy and Norco milk.

During the October school holidays this year, the centre opened for 200 hours over 10 days and was serviced by more than 220 volunteers, with 3,600 customers calling in to stop, revive and survive. This Christmas-New Year holiday period the centre will commence operation on Friday 18 December and will cover 32 days of service, requiring more than 600 volunteers to cover all shifts, and it is expected to service more than 20,000 customers. This is an enormous contribution being made by local volunteers to the wellbeing of people travelling along the Pacific Highway, playing a significant role in ensuring that people are able to arrive safely at their destination.

Due to the meticulous nature of the record keeping at the centre, I am happy and proud to confirm that the Hastings Driver Reviver Centre has served well over 625,000 customers over a period of 20 years—a marvellous achievement and a wonderful community service. The success of the site is due to the leadership of people such as Neville Russell, Gordon Toms, Charlie Charters, John Pettit, Leon Griffiths and the current site

manager, Peter Goodwin. The contribution made by Dorothy Sargent should also be recognised through her efforts in creating the volunteer rosters over a period of 15 years before sadly passing away. Les Phipps has ably fulfilled this extremely demanding role in recent years and is a valuable member of the team.

In commending the important contribution that Hastings Driver Reviver volunteers make to our society it is also important to recognise the value of other Driver Reviver sites throughout Australia. I encourage everyone travelling on our roads this holiday period to stop, revive and survive, and in doing so to express their appreciation for the tremendous efforts of our Driver Reviver volunteers.

LIVERPOOL PLAINS COALMINING

Mr PETER DRAPER (Tamworth) [2.07 p.m.]: I firmly welcome the second interim report of the Federal Parliament's Select Committee on Agricultural and Related Industries Food Production in Australia, and strongly support its findings regarding the impacts of mining upon food production. Chaired by Senator Bill Heffernan, this bipartisan committee believes that prime agricultural land needs to be protected from mining developments. Protecting the most productive agricultural land is an important step towards maintaining efficient and quality food production systems, while protecting the nation's food security.

As Australia is the driest inhabited continent on earth with only an estimated 6 per cent of arable land across the country, the preservation of these productive lands and finite water systems is clearly of national significance. The committee believes that the floodplains of the Liverpool Plains should not be subject to mining activities because the climate, soils and unique groundwater of the Liverpool Plains make it one of the most fertile and drought-resistant agricultural areas in Australia. The committee recommends that the New South Wales Government investigate the total prohibition of mining under the floodplains of the Liverpool Plains, and also other areas of the State where similar conditions prevail—especially where evidence indicates that there will be damage to the floodplain, aquifers or impacts upon the agricultural productive capacity of the floodplain in question.

The committee also holds concerns about proposed mining on the ridge country adjacent to the Liverpool Plains. The committee notes the importance of the ridge formations around the floodplain, given their contribution to the recharge of the underground aquifer and also surficial aquifer. The committee notes that neither BHP Billiton nor Shenhua were able to give an unequivocal assurance that mining the ridges would not damage the aquifers. The warning of one witness describing the impact of mining on the Hunter Valley in the section entitled "other environmental and health impacts" must be heeded. The witness said:

> All you have to do is fly over it and look at the 500 square kilometres that look much like a moonscape. There are ridges of rock rubble that are now in place from where they blew up the ground to get coal. That has brought all the toxic rocks up on the surface: the rock ledges between the coal mines have the same heavy metals as the coal itself … every time it rains it leaches those heavy metals out and they go down eventually into the gullies, into the creeks and into our rivers. There is very little really fresh water left in the Hunter now. It was one of the richest and most diverse valleys … from growing small volumes of various grains; from dairying, which was very big in those days but they have nearly all gone because of mining; and from vegetables growing … now the Hunter is just like an industrial area; there is very little left except on the east side of Singleton.

We must never let this happen to the Liverpool Plains. The Caroona Coal Action Group has been pivotal in highlighting to the wider public the threat to our prime agricultural lands, and the group has welcomed the recommendations and called for them to be implemented immediately. A group spokesperson said:

> It is about time that some of our politicians start taking the hard decisions to maintain the future integrity of Australia's Agricultural Production on its most fertile lands. This is not a debate about being anti mining in any way shape or form, but it will ensure Australia is able to grow its own food and fibres into the next century. We are concerned that through current exploration practice there is damage being done to our precious water systems every day; the NSW State Government signed that agreement with its own blood! Now, the mining company is throwing its hands in the air saying that they are acting within the law and intend to continue to do so. Once this precious resource is damaged in any way there will be no turning back! Now is the time to act, stop this process in its tracks and protect Australian Agriculture forever.

Another very determined campaigner has been the Federal Independent member for New England, Tony Windsor, who was also pleased with the findings released by the committee. Tony commented to me that the Senate has recognised what any thinking person who visited the Liverpool Plains would recognise—that is, to disturb these alluvial flood plains, underpinned by massive, groundwater systems, could be potentially disastrous, hence the need for a comprehensive water study before any mining activity occurs. I understand that Tony has suggested that Senator Heffernan move an amendment to the Commonwealth Water Act to ensure that a water study be carried out in all such cases prior to issuing exploration licences.

I thank the new Minister for Mineral Resources, the Hon. Peter Primrose, for having met with me last week to discuss the Liverpool Plains and various issues of concern to the local people of that area. I welcome his undertaking to visit the area as soon as practicable. I urge the New South Wales Government to note the recommendations contained in the Senate committee report, and to act upon them so future food security is guaranteed. It is critical that action happens to protect the Liverpool Plains and all prime agricultural lands in our State. The Liverpool Plains are unique; they are the food bowl of our State. The Liverpool Plains deserve to be protected and I am seeking the support of the Government to do so.

Private members' statements concluded.

[*The Acting-Speaker (Mr Matthew Morris) left the chair at 2.11 p.m. The House resumed at 2.15 p.m.*]

ELECTORATE OFFICE AND COMMITTEE STAFF

The SPEAKER: Today we have in the gallery a group of electorate officers and committee staff who are visiting our Parliament for the Vital Information Course run by the Legislative Assembly. Reverend the Hon. Fred Nile and I welcomed them this morning, and I now welcome them to question time. On behalf of all members of this House, I thank them for their hard work in the front line of service for this Parliament.

ASSENT TO BILLS

Assent to the following bills reported:

Child Protection Legislation (Registrable Persons) Amendment Bill 2009
Graffiti Control Amendment Bill 2009
Independent Commission Against Corruption and Ombudsman Legislation Amendment Bill 2009
Public Sector Restructure (Miscellaneous Acts Amendments) Bill 2009
Valuation of Land Amendment Bill 2009
Wine Grapes Marketing Board (Reconstitution) Amendment (Extension) Bill 2009

BUSINESS OF THE HOUSE

Notices of Motions

Government Business Notices of Motions (for Bills) given.

BUSINESS OF THE HOUSE

Notices of Motion

General Business Notices of Motions (for Bills) given.

QUESTION TIME

[*Question time commenced at 2.22 p.m.*]

NEIGHBOURHOOD SAFER PLACES PROGRAM

Mr BARRY O'FARRELL: My question without notice is addressed to the Premier. Given that following findings of the Victorian bushfire royal commission the Premier announced the Neighbourhood Safer Places program would be ready by the end of November to provide families with critical information on safe sites to go to in the event of a bushfire evacuation, is it his incompetence or Labor's ongoing infighting that has led to the failure to provide this detail on the Rural Fire Service website for 60 per cent of the State's local government areas?

Mr NATHAN REES: I am certain the work is underway. I will seek a report from the Minister on its progress and any potential delay. If there has been a delay, I would rather the time is taken to get it right than for it to be put up prematurely. In New South Wales 70,000 volunteers have just undertaken the most arduous preparation for a bushfire season in living memory. Following the awful tragedies that arose from the Victorian bushfires last year, every jurisdiction in Australia has undertaken a thorough review of the way it deals with precautionary measures and the fighting of fires. The New South Wales Rural Fire Service Commissioner has

told me that we have never been better prepared for a fire season than we are this year. There have been a record number of hazard reduction burns by both the Rural Fire Service and the National Parks and Wildlife Service. We have never been better prepared.

EMISSIONS TRADING SCHEME

Dr ANDREW McDONALD: My question without notice is addressed to the Premier. Can the Premier update the House on the effects on New South Wales of the Commonwealth's proposed Emissions Trading Scheme?

Mr NATHAN REES: I thank the member for Macquarie Fields for his question and longstanding interest in this most important matter. Today is a dark day for Australian families. Once again the Liberal-National Coalition has moved to block action on climate change. On Sunday the principled Malcolm Turnbull pointed out what was at stake in the ballot that occurred in Canberra earlier today. He said:

> If Nick Minchin wins this battle he condemns our party to irrelevance … we will end up becoming a fringe party of the far right.

That is precisely what has occurred in Canberra today. Faced with the toughest single policy challenge in a generation, the Federal Liberal Party voted for a man who believes that the earth is cooling.

Ms Linda Burney: And flat.

Mr NATHAN REES: Not flat, just cooling. They voted for a man who just a few weeks ago on *Four Corners* described climate change science as the work of evangelicals. In an interview last week Laurie Oakes reminded Mr Abbott of a speech he made in the Victorian town of Beaufort. Mr Oakes quoted from the very helpful local paper, which stated:

> In a wide-ranging speech Mr Abbott talked about climate change, the Liberal political fortunes and Kevin Rudd.
>
> "The argument on climate change is absolute crap", said Mr Abbott.

The House will forgive my language, but that is a direct quote from the new Leader of the Federal Opposition, the alternative Prime Minister of Australia.

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

Mr NATHAN REES: The man who calls the biggest environmental and economic challenge of our time "absolute crap". What an absolute and utter disgrace! Let us remember who put him there—the ultimate climate change denier, Nick Minchin, and the New South Wales branch of the Liberal Party.

Mr Brad Hazzard: Point of order: What in fact Tony Abbot said was, "I think that climate change is real."

The SPEAKER: Order! The member for Wakehurst will resume his seat. I call the member for Wakehurst to order. I call the member for Wakehurst to order for the second time. The member will not take points of order to deliberately stop the flow of debate. The Premier has the call.

[*Interruption*]

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

Mr NATHAN REES: Nick Minchin said:

> I don't mind being branded a sceptic about the theory that human emissions and CO^2 are the main driver of global change, of global warming. I don't accept that and I've said that publicly.

That is the prevailing view of the Leader of the Opposition federally against the greatest economic and policy challenge of our time. The people of New South Wales and the people of Australia have made it clear that they want national action on climate change. The business community has made it clear that it wants certainty. Tony Abbott's proposed course of action outlined this morning means further delays and further uncertainty. New South Wales stands to reap huge benefits from the introduction of the Commonwealth's Carbon Pollution

Reduction Scheme. Since Kyoto in 1997 this Government has positioned New South Wales as a leader on climate change, setting us up to grab the lion's share of clean energy jobs and industries for our State. We introduced the world's first mandatory greenhouse gas emissions trading scheme. Since 2003 that scheme has saved 69 million tonnes of greenhouse gas emissions. We have led the world. New South Wales has proved that an emissions trading scheme can work.

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

Ms Linda Burney: Who is disgusting?

The SPEAKER: Order! The Minister for Community Services will not assist the Speaker.

Mr NATHAN REES: The less said about the member for Hawkesbury the better. The Federal Coalition has today with the installation of Tony Abbott done its very best to halt any progress on arresting global warming. Interestingly, despite their protestations, members in their own backyard hold the same views. The Hon. Rick Colless, Nationals member of the Legislative Council and their Parliamentary Secretary for Climate Change, said in the *Forbes Advocate* in August 2009:

> I don't think we should have an ETS … climate is not influenced by carbon … a carbon tax is a furphy.

That is what their Climate Change spokesperson said. Last year the Leader of The Nationals, Andrew Stoner, said:

> It might make North Shore doctors' wives feel good about themselves, but it doesn't make any sense to families.

Does it make sense for families to know their kids will get clean energy jobs? I would have thought so. Does it make sense for businesses to have investment certainty? I would have thought so. But it does not make sense to the Leader of The Nationals. The New South Wales Coalition in this House has voted in support of an emissions trading scheme, which was Liberal Party and The Nationals policy adopted in September last year. Yet there are Nationals in the electorate, in the media and in the upper House bagging an emissions trading scheme and climate change science from one end of New South Wales to the other.

It is sheer and utter hypocrisy from the Leader of The Nationals and an ongoing denial by The Nationals and the Liberal Party to acknowledge the realities of climate science. The Leader of the Opposition must answer two questions: Will the Leader of the Opposition turn to the Leader of the Nationals and ask him to pull his Federal counterparts in line or will the Leader of the Opposition get on the phone to Tony Abbott and urge him to pass the Carbon Pollution Reduction Scheme legislation without delay? Will the Opposition back the scheme or not?

MINISTRY

Mr ANDREW STONER: My question is directed to the Premier. If his leadership is, as he says, "rock solid", why did his chief of staff threaten to sack the Treasurer, Eric Roozendaal, unless he released a statement denying he was interested in the Premier's job?

Mr NATHAN REES: He did not.

AIR AMBULANCE SERVICE

Mr GERARD MARTIN: My question is directed to the Minister for Health. Will the Minister update the House on the New South Wales Air Ambulance Service, which provides a vital link in health service provision in rural and regional areas?

The SPEAKER: Order! I call the member for Lismore to order. I call the member for Coffs Harbour to order. I call the member for Epping to order. If members continue to interject I will not hesitate to remove them from the Chamber.

Ms CARMEL TEBBUTT: I thank the member for Bathurst for his question. He is a strong advocate for rural and regional New South Wales and I know that he, along with many other members in this House, has been very interested in this issue and will be very keen to hear the update on this important service. There is no doubt that the New South Wales Air Ambulance Service provides a vital medical link to rural and remote

communities. Every year more than 5,000 patients are flown from rural and remote hospitals to specialist hospitals in major centres. The Air Ambulance Service covers a vast geographic area from Brisbane to Melbourne and from east of the Darling River to Lord Howe Island.

There is no doubt that the skills of the highly trained ambulance flight nurses have saved countless lives throughout the 40 years this service has been in operation. Today I had a chance to meet two ambulance flight nurses, Margaret and Elisabeth, and to talk to them about the challenges they face in their job every day as they provide support and care to people in rural and regional New South Wales. During those 40 years different aviation companies and airlines have held a number of commercial contracts for the provision of aircraft, pilots and engineers. Seven years ago, in a competitive tender, the contract was won by the Royal Flying Doctor Service, which has been providing the service since that time.

The current contract expires in December 2011 and the Ambulance Service issued a tender to the market for a period of 10 years from 2012, again for aviation services only: pilots, engineers and aircraft. I am pleased to advise the House that the Royal Flying Doctor Service has once again been successful as the preferred tenderer for this service and a contract was signed on Monday 30 November. The services associated with this contract will commence from January 2012. This is very good news for the Air Ambulance Service and the Royal Flying Doctor Service because it means that the partnership that we have developed over the past seven years can continue and it means that rural and regional patients, through the services provided by the Royal Flying Doctor Service, may have access to specialised health services that are available only in larger centres.

The SPEAKER: Order! Members will come to order, including the member for Bathurst and the member for Murrumbidgee.

Ms CARMEL TEBBUTT: The Royal Flying Doctor Service is an Australian icon and its contribution to the health of rural and remote communities is well known, dating back to the 1920s. This 10-year contract will give both certainty and a solid foundation for the continued excellent work of the aeromedical service. The medical crew, the call taking, the flight planning and dispatch functions continue to be provided by the New South Wales Ambulance Service. The fixed wing service forms part of the State's aeromedical network, which also comprises helicopters and specialised road retrieval ambulances.

The extensive evaluation of tenders not only looked at the issue of price but also at issues such as quality, management, safety, implementation plans and experience. This decision was based on the best and final offers submitted to the State Contracts Control Board by the Tender Evaluation Committee. The evaluation committee comprised representatives from ambulance, health, commerce and the Rural Fire Service and an aviation consultant. In more good news for the ambulance aeromedical service and for rural and regional New South Wales I am pleased to inform the House that there will be an expansion to the fixed-wing fleet. From 2012 the number of fixed-wing aircraft operating for the Ambulance Service will increase from four aircraft to five to meet the growing demand in patient numbers.

The aircraft utilised are the latest King Air 200 aircraft, which will be fitted with state-of-the-art safety devices such as traffic avoidance systems and infrared technology to assist with night-time operations. I am pleased to announce that two of the five new aircraft will be the larger King Air 350 model. These aircraft have greater payload capacity and range, which means that the Air Ambulance Service will be in a position to transport high acuity, complex medical patients who require additional highly specialised medical equipment and personnel. It will also mean that the air ambulance can fly obese patients. Many obese patients, because of their weight, previously have had to be transported by road.

The additional resources and a mix of small and large aircraft will allow greater flexibility and will place the Ambulance Service in a good position to meet the demands of the future. The air ambulance has a long and proud history of providing services to the communities of New South Wales. I take this opportunity to commend all those people whose dedication and professionalism benefit thousands of patients across New South Wales every year. I thank the Royal Flying Doctor Service for continuing the partnership. I look forward to this new contract taking effect and providing these important services to the people in rural and regional New South Wales.

TRANSPORT SERVICES

Ms GLADYS BEREJIKLIAN: My question is directed to the Minister for Transport. Is it the Minister's failure to improve rail, bus and ferry services, his failure to listen to the community's protest against the Rozelle metro or his failure to deliver rail to the north-west that accounts for his job being offered to the member for Rockdale?

Mr DAVID CAMPBELL: In less than 12 months almost 150 extra buses have been delivered on the roads.

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

Mr DAVID CAMPBELL: The operation of the Metro 10 bus service has been extended to Maroubra Junction. The Metro 20 bus service is in operation, linking Artarmon to Rosebery and through to Mascot. They are two new projects that are in operation. Last week we saw that the express ferry service from Parramatta to Circular Quay has a growing number of passengers. In the past 12 months 7,000 commuter car parking spaces have been opened, are under construction, are out to tender or are in the planning stages. The Epping to Chatswood rail link was opened as a shuttle service that is currently carrying about 12,000 passengers a day. It is now integrated into the overall network with a new timetable, which provides additional services to western Sydney and improved timetabling arrangements for a whole host of people.

Right across the metropolitan area there have been reviews of our bus networks, responses to community concerns, additional services and additional passengers. Currently, the first stage of the South West Rail Link is under construction. Just a couple of weeks ago the Premier announced the second stage, and that will be a continuos project. There has been significant reform in rail maintenance and we are seeing improved services as a result. We have undertaken a very strong exercise in consultation with rail staff around the station staff review. The list of additional services that have been rolled out by this Government goes on and on. But all we get from the Opposition is whingeing, whining and complaining. All we get is inane, nonsensical and politically motivated questions such as that asked by the member for Willoughby in the face of a very strong record of improved services and improving services into the future.

PLANNING AND JOBS

Mr NINOS KHOSHABA: I address my question to the Minister for Planning. Will the Minister outline how the planning system is helping to deliver jobs in western Sydney?

Ms KRISTINA KENEALLY: I thank the member for Smithfield for his question and for his interest in this area. Of course, western Sydney is at the geographical heart of the city and the centre of the Government's focus on delivering jobs closer to home—that is, more job opportunities where people live. The planning system is crucial in turning the vision of more jobs for western Sydney into a reality. An extra 1.7 million people will be living in Sydney by 2036, and providing more jobs in western Sydney where people will live is key to the Government's plans to ensure that this population growth is achieved sustainably and, in particular, that people living in western Sydney are able to spend more time with their families and less time travelling to and from work.

In the past month the Government has taken two more important steps towards delivering more jobs for western Sydney. Firstly, planning approval has been given for the Dexus estate located in the seat of Smithfield. It is a new industrial park to be established in Greystanes in Sydney's west with the potential to create up to 800 construction jobs and to accommodate 2,000 workers. This estate is in the Western Sydney Employment Area, which was announced by the Premier and me in August this year. We were joined in making that announcement by the members representing the electorates of Smithfield, Mulgoa and Londonderry. Of course, members will recall that the Western Sydney Employment Area delivered 800 hectares of employment land that has the potential to support 16,500 jobs. We also announced the $80 million Erskine Park link road—a project long supported by members on this side of the House representing western Sydney electorates.

The $150 million state-of-the-art Dexus warehousing and office facility will play a significant role in providing jobs close to home for residents near one of Sydney's fastest growing and newest residential areas. This estate is located close to major transport links, including the M4 and the M7. The plans also include a dedicated bus transitway running along Reconciliation Drive to the new employment precinct. This project will deliver new development and new jobs, with new transport infrastructure to support it. The Dexus industrial estate will also complement the thriving new area to the north, which hosts large-scale warehousing and distribution centres for companies such as Linfox, Cadbury Schweppes and Laminex. The approval of the Dexus estate is just one part of a larger parcel of land that was identified as strategically important employment land in the metropolitan strategy. Indeed, as we learned during the recent upper House inquiry hearings, it has been earmarked since the 1960s and was identified in the 1980s by the Minister for Planning in the Greiner and Fahey governments as strategically important employment land.

The Dexus estate area was designated as State significant in December last year, allowing the planning and assessment process to be streamlined so that jobs could be created as soon as possible. This means that

Dexus was able to put forward its proposal for the new industrial park without any unnecessary delays due to zoning or land-use constraints. The approval I am outlining today demonstrates how this State's major project system can streamline private sector investment, resulting in thousands of jobs and millions of dollars of investment in western Sydney.

Secondly, in the north-west—which is another target area for growth, housing and employment—draft plans for a new employment hub at Marsden Park have just been released for public comment. This hub has the potential to support up to 10,000 jobs. The precinct will support thousands of new and diverse employment opportunities in Sydney's north-west growth centre. This is significant because the Marsden Park industrial precinct is the first precinct to be released under the Government's precinct acceleration protocol, which allows planning and development to proceed earlier than proposed provided it is at no extra cost to taxpayers. This is predominantly an employment zone, but it also allows for more than 1,100 new residential dwellings to house some 3,200 people. It will provide new homes close to jobs and to the planned Marsden Park town centre to the north.

The plan also features 92 hectares of conservation land and open space to ensure a sustainable and well-balanced development. With access to the M7 and other major roads, this precinct is well positioned to become a major employment centre. It is close to established suburbs of Hassall Grove, Bidwell and Shalvey to the south and it will also be well linked with its surrounding suburbs with major upgrades planned for Richmond Road, Townsend Road and New Shanes Road. The precinct will give both current and future residents in the area the chance to enjoy shorter trips to and from work.

As a requirement of the precinct acceleration protocol, planning costs will be borne by the precinct's largest landholder, Marsden Park Developments Pty Ltd, giving taxpayers a better deal. Marsden Park Developments will deliver essential services, including a $30 million upgrade of part of Richmond Road from two lanes to four and water, sewerage and recycled water infrastructure. The draft plans for this precinct are out for public comment and I encourage the local community and other interested parties to have their say. For western Sydney families, the Dexus estate industrial park and the proposed Marsden Park industrial precinct will ensure that this rapidly growing area of our city is matched with rapidly growing opportunities to obtain jobs closer to home. It is about working to make western Sydney a great place to live and to work. It will create more jobs and investment for New South Wales and for the people of western Sydney.

ELECTRICITY INDUSTRY REFORM

Ms KATRINA HODGKINSON: My question is directed to the Premier. Did Steve Whan tell his constituents last night that there was nothing he could do about the Government's refusal to allow Snowy Hydro Limited to bid for electricity assets given that government departments made all the decisions because in his electorate he is embarrassed to be a member of the Cabinet or because the Cabinet no longer has the authority to run New South Wales?

The SPEAKER: Order! I believe the question was directed to the Premier. I remind the member for Burrinjuck to refer to members by their correct titles.

Mr NATHAN REES: This is the member who with a Nationals entourage drove into Queanbeyan in a bus, stepped out of the bus, stood around for 30 minutes, got back on the bus and left, and then said it was part of a listening tour. In contrast, the Government has held a number of community Cabinet meetings, or the equivalent, in Queanbeyan—a terrific part of the world. The member's question—ill-informed as it was—goes to electricity market reform and the generation of electricity in New South Wales. Members opposite have zero credibility on the policy front in that area. It is about players in the electricity market. When this issue was well canvassed their spines turned to jelly. When New South Wales had electricity reform—

The SPEAKER: Order! Members on both sides of the House will come to order. I call the member for Willoughby to order for the second time.

Mr NATHAN REES: When electricity reform was on the agenda, as per the Coalition's stated policy at the time, Barry O'Farrell went missing in action. His spine turned to jelly. The only man with any principles about the Coalition's energy policy is Peter Debnam, and he is on the backbench. He is nodding sagely because he knows about principles. Barry O'Farrell has no energy policy and, as I have said before, no water policy. We will be sitting around in the dust and the dark if he is ever near the Treasury benches. He simply does not understand how to put together an energy policy.

REGIONAL TOURISM

Mr KERRY HICKEY: My question is to the Minister for Tourism. Will the Minister update the House on what the New South Wales Government is doing to support events and attract visitors to regional New South Wales?

Mr Andrew Fraser: They are having car races at Cessnock.

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

Ms JODI McKAY: It is good to see that the member for Coffs Harbour—

Ms Linda Burney: Is alive!

Ms JODI McKAY: —is alive and paying attention. I thank the member for Cessnock for his support of tourism in the Hunter Valley and particularly the wine country in his electorate. The Government is doing all it can to support tourism and events not only in Sydney but also, of course, in regional New South Wales. We know that tourism supports some 162,000 jobs and generates some $28 billion to the State's economy. Around half of those jobs, about 80,000, are in regional New South Wales. So, it is incredibly important that we are supporting the small businesses and regional tourism organisations in those areas. That is why we have a number of programs aimed specifically at regional New South Wales.

One of those is the Regional Flagship Events Program. This year we have committed some $412,000 to that program. About $250,000 of that is in direct funding and another $162,000 of it is towards print and online promotion of regional events across Australia. With that $412,000 we are supporting some 20 regional events. Those events are iconic and some are quirky. They have been chosen for a particular reason because of the strength they bring to their regional communities. They provide what is an incentive for people to discover parts of regional New South Wales. I would have thought that Opposition members, particularly given that many of their seats are in regional areas, would be interested in what I am saying about regional tourism.

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

Ms JODI McKAY: I intend to give members opposite something to talk about shortly. Right now, I want to talk about the incentive regional tourism provides in particular events for people to discover parts of regional New South Wales they might not otherwise have known about. That is about raising the profile of our regional destinations and boosting visitor numbers. I am happy to note that events in the Speaker's electorate of Northern Tablelands have received funding in the 2010 Regional Flagship Events Program. This includes the very popular—I know the member for Epping may want to head out to this event—Opera in the Paddock.

Mr Gerard Martin: He can sing.

Ms JODI McKAY: He does sing; I have heard him sing. Opera in the Paddock is held annually, 25 kilometres from Inverell. It features an open-air classical concert. I am sure the Speaker would be happy to accept any sort of commitment to that event that the member for Epping would like to make. I am told organisers are expecting more than 1,700 visitors to that event, which will be held in March next year. Also for the first time I am sure the Speaker will be pleased to hear that Moree on a Plate, in the electorate of Barwon, which borders on the Speaker's electorate, will also receive some $10,000 in support under this program.

Mr Kevin Humphries: Thank you.

Ms JODI McKAY: Thank you—I appreciate the member acknowledging what the Government is doing for his electorate. This is a festival of flavours that showcases both the New England and north-west regions' produce and wine, so it is a really important event. Half of the events that have been supported under this program and have received the funding boost I am speaking about are first-time recipients. That is a testament to the strength of events in regional New South Wales. I am sure the member for Bathurst will welcome news that among the list is $10,000 for the 2010 Rally of Lithgow. That will form part of the New South Wales championship round for rally driving, which is attracting elite racers to the starting line in the heart of Lithgow's main street.

Likewise, I am sure the member for Maitland will be interested to hear that the Bitter and Twisted International Boutique Beer Festival will receive some $20,000 each year for three years. That is also an annual

event that features the best from Australian breweries as well as specialty beers and foods from around the globe. The member for Albury and the member for Murray-Darling will be happy to hear that the Mulwala Water and Ski Club Freestyle Sports Expo will receive some $10,000 for the first time. This is the largest combined freestyle event in the region. It brings together events such as freestyle motocross, freestyle BMX, Sampson the monster truck, the ball of death and the human cannonball.

I come now to be member for Coffs Harbour. The member for Coffs Harbour will be pleased to note that the International Buskers and Comedy Festival will benefit from $10,000 in funding support for more than 120 shows across 15 different venues over nine days. This event will include Australia's largest gathering of professional buskers. This may be a career path for the member for Coffs Harbour when Melinda Pavey moves in. Despite the lack of support from the Byron Bay council to events in its local government area, I am sure the member for Ballina would be happy to hear that the New South Wales Government is supporting two events in his electorate with a total of $20,000 in funding—the Big Joke Comedy Festival in Bangalow and the Byron Bay International Film Festival. Every year we say the Big Joke Comedy Festival and the Opposition gives us the same response. The Big Joke Comedy Festival and the Byron Bay International Film Festival will each receive $10,000 and combined are expected to attract close to 9,000 visitors to the region.

Finally, I am sure the member for Cessnock and the member for Upper Hunter will be delighted that the Hunter Valley Food and Wine Month will also receive $10,000 for the first time. The New South Wales Government is committed to supporting events and creating local jobs and investments in regional communities. The events supported under the Regional Flagship Events Program are run by the local communities or local businesses and demonstrate the fantastic diversity of tourism experiences on offer in regional New South Wales. Since the program began we have supported events such as the Kiama Jazz Festival, the Elvis Parkes Festival, the Deni Ute Muster and, of course, the Winter Magic Festival in the Blue Mountains. Regional New South Wales attracted some 46 million domestic and international visitors who stayed 66.5 million nights and injected $11.2 billion into regional economies. The Regional Flagship Events Program gives communities across New South Wales the extra resources they need to market and promote their events to a wider audience than would otherwise be possible, and the New South Wales Government is proud to support them.

POLITICAL DONATIONS

Mr BRAD HAZZARD: My question is directed to the Premier.

The SPEAKER: Order! The Minister for Planning will come to order.

Mr BRAD HAZZARD: Will the Premier confirm that in drafting the legislation banning developer donations he did not consult either the Independent Commission Against Corruption [ICAC] or Professor Anne Twomey, despite previously relying on Dr Twomey's advice as his main excuse for refusing to undertake comprehensive campaign finance reform to end Labor's decisions for donations culture?

Mr NATHAN REES: I was personally briefed in detail by Anne Twomey inside the last 12 months on her report that was commissioned at our request around reform of donations in New South Wales. I was briefed in entirety on that reform process and the constitutional complexities of it. With regard to the second question about the ICAC, we made specific reference to the ICAC definition of "developer". The Leader of the Opposition sent me a single paragraph letter as his submission on the draft terms of reference, as did the Leader of The Nationals. If they have an issue with the terms of reference for the joint standing committee, it is not too late; they can get suggestions to me today. I bet they do not.

WATERWAYS SAFETY

Ms ALISON MEGARRITY: My question is addressed to the Minister for Ports and Waterways. Can the Minister update the House on the Government's latest initiative to improve safety on our waterways?

Mr PAUL McLEAY: I thank the member for Menai for her ongoing interest in supporting this important safety initiative, particularly for boat users on the Woronora River. On 7 November this year the Government announced a call for public comment on proposals to extend the rules for compulsory wearing of lifejackets while boating. I can report to the House that so far more than 200 submissions have been received from people wanting to have their say on what amounts to the biggest changes to boating safety since the boating safety regulations were introduced back in 1975.

In the past 10 years, 52 per cent or 91 out of a total of 174 boating fatalities in New South Wales were the result of a person falling overboard or a vessel capsizing. Drowning is the primary cause of death in both of these types of incidents and a total of only 11 or 7 per cent of victims were known to have been wearing a lifejacket at the time. There are more than 485,000 licensed boaters and 223,000 registered vessels in the State. It is estimated that more than 1.5 million people go boating on our waters every year. This proposal to extend the compulsory wearing of lifejackets is aimed squarely at recreational boaters where there is heightened risk.

This is not about taking the fun out of boating and we are not looking at making the wearing of lifejackets compulsory at all times because not all boating activity has a similar risk. The regulations in New South Wales already require that every boat carry an appropriate lifejacket that is easily accessible for everyone on board. But while education plays a vital role in getting safe boating messages to boaters, we need to balance that with appropriate regulation because, unfortunately, the safety messages do not always get through.

Under these reforms it is proposed a minimum lifejacket requirement would apply to children less than 10 years old in a vessel less than 4.8 metres; children less than 10 years old when a vessel of less than eight metres is underway in the open area; when being towed, such as when waterskiing or wakeboarding; when in a vessel less than 4.8 metres in heightened risk situations such as at night, when alone, and on ocean waters; at all times when in a vessel less than 4.8 metres on alpine lakes; when operating an off-the-beach sail craft on ocean waters; on small recreational craft such as kayaks and sailboards, at all times on ocean waters and when more than 100 metres from shore in sheltered waters; and at times of skipper judgement and direction. That would give a skipper the right to require passengers to wear a lifejacket if, for example, the weather changed and a routine boating trip became riskier.

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

Mr PAUL McLEAY: At the request of stakeholders, the Government has included rock fishing safety in its discussion paper. While NSW Maritime does not have a role in rock fishing safety, and regulation would not be easy, so far in 2009, nine people have drowned while rock fishing and this is simply too many. I will give the House an example of how practical regulations can save lives. In the six years since the State Government introduced the requirement to wear a lifejacket when crossing a coastal bar, there have been just two fatalities in bar crossing incidents. In the preceding 11 years there were 14 fatalities.

The SPEAKER: Order! Members will cease interjecting.

Mr PAUL McLEAY: In asking the boating community to comment on this reform, we are looking at situations where, for example, taking a tinnie offshore has a significantly higher risk than sitting inside a motor cruiser in a quiet bay. The Government has a proud record when it comes to boating safety reform. Working with the industry and stakeholders over the last 12 months some of our reforms have included the introduction of the new Marine (Safety) General Regulation 2009, which brought in tough new offences and strong penalties. We have established a new volunteer marine rescue organisation, Marine Rescue New South Wales, and provided $3 million of transitional funding.

We have already introduced an online maritime weather alert system to help boaters and rock fishermen. We have a requirement for practical boating experience for those seeking a boat licence instead of just a paper test. We have extended the coastal web camera trial to 15 locations and we are rolling out a $3 million education plan. Most of these reforms and the current life jacket proposals are the result of the hard work and sensible commitments of the former Minister. I thank him and look forward to taking the lifejacket reforms forward.

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

Mr PAUL McLEAY: The response from industry has been overwhelmingly positive. Michael Chapman of the Boat Owners Association said:

> These measures are revolutionary in Australian boating law and should be supported.

These proposals are also supported by the Boat Owners Association, and just recently by the leading industry magazine, which I would recommend to anyone, *Afloat*. I again encourage everyone to take this opportunity to provide feedback on this important issue through the maritime website or NSW Maritime offices. I wish everyone in the boating community a happy and importantly safe New Year and summer of boating.

NEIGHBOURHOOD SAFER PLACES PROGRAM

Mr NATHAN REES: Earlier in question time the Leader of the Opposition asked me about neighbourhood safer places. Recently the member for Barwon asked a question in the same vein about jobs that he alleged had been cut; they had not. At one stage the member for Clarence asked a question about a rescheduled meeting up there in the top tier of policy concerns. There was also last week's sterling effort from the Leader of the Opposition when he asked me about the specifications on a boat and a faulty fuel gauge. Further to my answer and consistent with it with regard to neighbourhood safer places, in an exercise that the *Sydney Morning Herald* has described as one of the largest collaborative projects between the State's Rural Fire Service and emergency services, I quote from the press release of the Minister of 27 November—members opposite could have had their answers there—which states:

> The locations of the first of the Neighbourhood Safer Places are now available on the Rural Fire Service website www.rfs.nsw.gov.au.
>
> The list is not exhaustive, as work is still going on to identify and validate locations in some areas. The website will be updated as new sites are confirmed and it is a credit to the Rural Fire Service given that these recommendations from the Victorian Bushfires Royal Commission were only delivered on August 17.

Question time concluded 3.09 p.m.

LEGISLATION REVIEW COMMITTEE

Report

Mr Allan Shearan, as Chair, tabled "Legislation Review Digest No. 17 of 2009", dated 1 December 2009, together with minute extracts regarding "Legislation Review Digest No. 16 of 2009".

Report ordered to be printed on motion by Mr Allan Shearan.

PETITIONS

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

Wagga Wagga Base Hospital

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

Tumut Renal Dialysis Service

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

Tumut Hospital and Batlow Multiple Purpose Service

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

Tumut Hospital Anaesthetic Services

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

Mobile Breast Screening Units

Petition requesting that mobile breast screen units be reinstated in areas within the North Coast Area Health Service, received from **Mr Donald Page**.

Bus Service 311

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

National Parks Tourism Developments

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

Adoption Laws

Petitions opposing any adoption law changes that take away the right of adopted children to be raised by a mother and a father, received from **Mr Craig Baumann**, **Ms Pru Goward** and **Mr Greg Smith**.

Ryde Department of Housing

Petition requesting community consultation on the construction of Department of Housing homes in the Ryde electorate, received from **Mr Victor Dominello**.

Pet Shops

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

Game and Feral Animal Control Amendment Bill 2009

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

BUSINESS OF THE HOUSE

Business Lapsed

General Business Notices of Motions (General Notices) Nos 551 to 559 lapsed pursuant to Standing Order 105 (3).

CONSIDERATION OF MOTIONS TO BE ACCORDED PRIORITY

Coalition Candidate for The Entrance

Ms ANGELA D'AMORE (Drummoyne—Parliamentary Secretary) [3.12 p.m.]: My motion is a matter of priority because the Leader of the Opposition's continued support for the Liberal candidate for The Entrance—a former One Nation candidate and former member of the State Executive of One Nation—is divisive and unacceptable. The motion should be accorded priority because the people of New South Wales need to know that the Leader of the Opposition has preselected a candidate with racist views that will harm the social harmony in our communities. My motion should be accorded priority, as it is important to expose the Leader of the Opposition and his extreme views. My motion should be accorded priority, as the Leader of the Opposition should immediately disendorse Mr Chris Spence as the Liberal Party candidate for The Entrance. The motion deserves to be accorded priority for these reasons.

Ministry

Mr ANDREW STONER (Oxley—Leader of The Nationals) [3.13 p.m.]: My motion deserves priority because the New South Wales Labor Party has a new ABN number—it is the "anyone but Nathan" number. It is a large number, and it is growing. The ABN is an assemblage of the right-wing factions, led by the speared former right-wing Ministers, who are clearly experiencing angst over the leftie Premier who leaves a trail of destruction involving their members. And it has been a considerable toll—Paul Gibson, sacked; Tony Stewart, sacked; Phil Koperberg, pushed; Frank Sartor, sacked; John Della Bosca, speared; Joe Tripodi, sacked; and Ian Macdonald, sacked.

The ABN group has been very active of late. First we heard reports of John Della Bosca offering the Labor premiership to your good self, Mr Speaker. If that is not a clear indication of how the New South Wales Labor Party feels about one of its own, then I do not know what is. Then we have Luke Foley offering the Transport Ministry to Frank Sartor if he called off the dogs. Not to mention Eddie Obeid seeking to move Noreen Hay into the upper House—that is a good place for Noreen—so Eric Roozendaal could take her place in the lower House and launch a challenge to become leader of the Labor Party and Premier.

And we must remember that just last week, right here in this Chamber when the Premier was accused by the Opposition of his leadership being in tatters, we had the spectacle of Joe Tripodi just about to wet himself on the backbench—he thought that was a great joke. Joe Tripodi and Eddie Obeid are reportedly backing Kristina Keneally for Premier. It is a huge task. We do not know who it will be. The only common element in all of this is that it will be anyone but Nathan. Even John Della Bosca is remaking himself and his image with that lovely speech in the other place. It was very touching; it was like a sonnet to his good wife, Belinda.

As I said, the only common element here is that Labor members are searching desperately for anyone but Nathan. My motion deserves priority because all of this has happened in just the last two weeks. Coincidentally, two weeks ago there were some moves by the Premier that were described at the time as "a stunning victory", "a promising move" and "a highwire act without a net". That was on 14 November 2009, the day Nathan Rees claimed to finally take back control of his party by giving himself the power to choose his own Cabinet. How the situation has degenerated since then. In just two weeks the activities of the ABN faction have manifested. They have been meeting, they have been plotting, and they are putting forward basically everybody but the drover's dog to roll Nathan Rees.

My motion deserves priority today because, despite the Premier promising to end it, the soap opera continues apace. But one thing is certain: If the right-wing factions had an agreed, credible candidate, Nathan Rees would be gone already. It is no longer a question of "if"; it is just a question of when Joe, Eddie and Della can agree on who will be the next leader. It is important that the House debate this motion because the implications of this ongoing soap opera are shocking for the people of New South Wales.

Because of this lot's obsession with internal machinations—but no unity, just a complete rabble—the condition of the State continues to decline. Whether it is a hospital, our congested roads, or the dysfunctional public transport in this State, nothing is improving, because this lot are not getting on with the job of fixing the problems in New South Wales. The people of New South Wales deserve a government with real leadership, a government that is unified, a government that has the solutions. I can tell the House, by the indication of any vestige of policy on this side, the suggestion is that the Coalition is the alternative government. The Government is out of puff and out of ideas, and is stealing Coalition policy.

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

The House divided.

Ayes, 50

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

Noes, 38

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

Question resolved in the affirmative.

COALITION CANDIDATE FOR THE ENTRANCE

Motion Accorded Priority

Ms ANGELA D'AMORE (Drummoyne—Parliamentary Secretary) [3.25 p.m.]: I move:

That this House:

(1) condemns the Leader of the Opposition for continuing to support the Liberal candidate for The Entrance, a former One Nation candidate and a former member of the State Executive of One Nation; and

(2) calls on the Leader of the Opposition to immediately disendorse Mr Chris Spence as the Liberal Party candidate for The Entrance.

Five days ago the Liberal Party candidate for the Entrance was exposed in this place. He was condemned by the State Electoral Commissioner—

Mr Adrian Piccoli: Point of order: Standing Order No. 154 says:

The Speaker may disallow any motion or amendment, which is the same in substance as any question already determined in the affirmative or in the negative in the same session.

The motion moved by the member for Drummoyne today is almost word for word the motion moved by the member for Wyong last Thursday 26 November 2009. The first part of the motion of the member for Drummoyne today states:

(1) condemns the Leader of the Opposition for continued support for the Liberal candidate for The Entrance ….

The first part of the motion of the member for Wyong last Thursday states:

(1) condemns the New South Wales Opposition for pre-selecting a former One Nation candidate in The Entrance …

The second part of the motion of the member for Drummoyne today states:

(2) calls on the Leader of the Opposition to immediately disendorse Mr Chris Spence as the Liberal Party candidate for The Entrance…

The second part of the member for Wyong last Thursday states:

(2) calls on the Leader of the Opposition to immediately disendorse Chris Spence ….

The motions are almost identical.

The SPEAKER: Order! I have looked carefully at this motion and consulted with the Clerk. While the motion moved by the member for Drummoyne is similar in substance to the motion moved by the member for Wyong last Thursday, a number of points vary. Therefore I will allow the motion moved by the member for Drummoyne.

Ms ANGELA D'AMORE: Obviously the Opposition has a lot to fear today in trying to gag me as the State member for Drummoyne. I am moving this motion because Chris Spence was exposed as a man who stood not once but twice as a candidate for One Nation. Chris Spence was exposed as an extremist and as a racist. He harassed Aboriginals at, of all places, the Aboriginal tent embassy in Canberra to the point where police had to be called. The Leader of the Opposition has also been exposed. The Leader of the Opposition has been exposed as a man who protects racists, a man who will not stand up against extremists and who will not stand up for what is right. The Leader of the Opposition is a man who takes a former national leader of the One Nation Party and draws him deep into the bosom of the New South Wales Liberal Party. Look at them all leaving. Shame on them!

Over the weekend the Leader of the Opposition launched a bizarre defence of his candidate for The Entrance by accusing the Treasurer of being a racist for daring to take a stand against racism. The Treasurer was accused of being a racist because he condemned right-wing extremists in the Liberal Party. Their logic defies belief. They say that those who condemn racism are racists themselves. On 27 November 2009 the Leader of the Opposition said to the *Australian Jewish News*:

> It is reprehensible for Mr Roozendaal to try and play the race card.

The Leader of the Opposition, who preselected Mr Spence as a candidate, thinks we are playing the race card! The Leader of the Opposition has stood up for the racist, the extremist who now calls the Liberal Party home, and he keeps standing up for him. The Leader of the Opposition should retract immediately his comments concerning the Treasurer. On 28 November 2009 in the *Sun Herald* the Treasurer said:

> It is extremely extraordinary that Mr O'Farrell can claim that I am fuelling racism by being opposed to One Nation.
>
> This is sheer nonsense. How can defending indigenous Australians against racial slurs be racism?
>
> I just cannot believe that the leader of the alternative government—

so to speak—

> in this state would consider the fight against extremism to be "reprehensible".
>
> I have spent my whole life fighting racism in every form and to be effectively labelled racist is an insult I would not expect from the Leader of the New South Wales Opposition.

I echo the Treasurer's statements. It is appalling that the Leader of the Opposition considers the fight against racism to be reprehensible. A man who rose through the ranks of One Nation to become a trusted lieutenant to Pauline Hanson and David Oldfield now has been welcomed with open arms by Barry O'Farrell. This man was so extreme that Pauline Hanson sacked him: he was too extreme even for Pauline Hanson. That is why Opposition members are not present in the Chamber—they are embarrassed about his preselection. He was too extreme for Pauline Hanson, but he is good enough for the New South Wales Liberal Party. He currently is employed by the member for Terrigal, Chris Hartcher. Where is the member for Terrigal? He is hiding because he is embarrassed that he has employed this person as an electorate officer. As stated in an Australian Associated Press report on 13 October 2000, Ms Hanson, upon sacking this man, said:

> Chris Spence's job was basically a self-appointment.

She sacked him because he was out of control. Today we want the Leader of the Opposition to disendorse this candidate. The Parliament issues a challenge to Barry O'Farrell to immediately disendorse him. Barry O'Farrell should stand up to the extreme right of the Liberal Party and disendorse Chris Spence as the Liberal candidate for The Entrance. It is divisive to allow his preselection process to spit out a person such as this. It is an absolute disgrace and Liberal Party members should hang their heads in shame.

Mr ADRIAN PICCOLI (Murrumbidgee—Deputy Leader of The Nationals) [3.32 p.m.]: It is no wonder that New South Wales is in the state it is in. The motion moved by the member for Drummoyne does not even make sense. I do not know who wrote it. I move:

> That the motion be amended by leaving out all words after "That" with a view to inserting instead:
>
> this House:
>
> (1) notes that the Liberal candidate for The Entrance has been selected in accordance with the democratic procedures and constitution of the Liberal Party;

(2) notes that Labor members of Parliament have gone outside the constitution of the Labor Party to seek to recruit the Speaker, the member for Northern Tablelands, to overthrow the Premier; and

(3) condemns the Labor Party for their continued leadership instability and calls on the Premier to disendorse those Labor members undermining his leadership.

The amendment is important because all this leadership speculation in the Labor Party is causing the Government of New South Wales, or what remains of it, to take its eye off the ball rather than focusing on delivering services—delivering trains and buses that run on time, providing adequate health services so that people who attend emergency departments are not left lying on gurneys in hospital hallways, and providing adequate educational facilities. We have seen the debacle in the way that the Government has administered the Building the Education Revolution program. The Government has taken its eye off the ball because it is concerned about who is going to take over from Nathan Rees. All this speculation has to stop so that the Government, for the 18 months it has left in office, can concentrate on delivering services. This leadership speculation must end. Even the Speaker, the member for Northern Tablelands, has been approached to lead the Labor Party. That shows the kind of mess they are in.

Mr Alan Ashton: How do you know that?

Mr ADRIAN PICCOLI: I do not know, but the member for East Hills knows that the Speaker has been approached. Everybody has been approached. Apparently Russell Grove is going to be approached to become the next Premier.

Mr Anthony Roberts: A great choice.

Mr ADRIAN PICCOLI: He is an excellent choice. I mean no disrespect, but he could not do any worse than the current Premier. If the Government wants to debate the preselection of candidates by political parties it need look no further than the mover of this motion, the member for Drummoyne, Angela D'Amore. She hardly went through a preselection process. She was appointed by head office simply because she is related to the member for Fairfield. That type of nepotism in the Labor Party is the reason why the Labor Party is full of junk. It does not have any democratic processes.

Ms Angela D'Amore: Point of order: I am happy to debate the member for Murrumbidgee, but if the member wants to attack me he should do so by way of substantive motion. Then I can debate him about the lies he is peddling on the record. He should do it properly by way of substantive motion.

ASSISTANT-SPEAKER (Ms Alison Megarrity): Order! The member for Murrumbidgee will refer to members by their correct titles. If the member for Murrumbidgee continues to attack the member for Drummoyne he will need to move a substantive motion. I am sure he is making passing reference.

Mr ADRIAN PICCOLI: I would be happy to make a further amendment to the motion. It does not stop with the member for Drummoyne. There was the member for Wyong, and the Minister for Planning booted out the former member for Heffron following head office intervention. Nathan Rees—former chief of staff to Milton Orkopoulos, who is now a convicted child sex offender—got shoehorned into the seat of Toongabbie by the former Premier. These are hardly democratic processes, unlike the way in which the Liberal Party and The Nationals select their candidates. The Government may not like the candidates preselected by the Liberals, The Nationals, the Greens or any other party; but I know the Liberal Party and The Nationals follow democratic processes to preselect candidates as members of Parliament. Tanya Gadiel was appointed as the Labor candidate for Parramatta. The Minister for Commerce, Jodi McKay, was shoehorned into Newcastle. The Labor branch members in Newcastle did not have much of a say about who would be the next member for Newcastle after poor old Bryce Gaudry, who was an excellent member of Parliament.

ASSISTANT-SPEAKER (Ms Alison Megarrity): Order! I call the member for Terrigal to order.

Mr ADRIAN PICCOLI: Matthew Morris is another example of a Labor Party appointment.

Mr Anthony Roberts: We haven't even started on the upper House.

Mr ADRIAN PICCOLI: That is right: we have not even started on the upper House. When was the last time the Labor Party had a democratic preselection process in the upper House? Eric Roozendaal, Michael Costa, John Della Bosca—they all did their time, they all served their apprenticeships, and then they were

shoehorned straight into the upper House. They could not get elected into the lower House, but they got shoehorned straight into the upper House. The motion as moved by the member for Drummoyne is ridiculous. It is the same motion as that moved by the member for Wyong last week. I agree with the Leader of the Opposition that the Labor Party is trying to use race as a wedge in the upcoming election. Chris Spence was a member of One Nation and realised he made a mistake. Labor has taken the opportunity to use race in the upcoming election. Mr Spence has not said anything wrong, but the Labor Party insists on using race as a wedge. That is completely and utterly disgusting.

Mr FRANK TERENZINI (Maitland) [3.39 p.m.]: This is a worrying concern for all of us. This is about the Opposition embracing a form of extremism by endorsing this person—a person who rose through the ranks of One Nation quickly and ruthlessly.

Mr Chris Hartcher: Point of order: Madam Assistant-Speaker, I refer you to the motion moved in this House last week in respect of the member for Maitland and his accepting of preferences from One Nation.

ASSISTANT-SPEAKER (Ms Alison Megarrity): Order! There is no point of order. The member for Terrigal will resume his seat. The member for Maitland has the call.

Mr FRANK TERENZINI: Anything will do for the Opposition to try to close down this debate. On 5 June the *Canberra Times* quotes this man as the ACT-New South Wales president of One Nation. One Nation's own annual return shows this man was on the One Nation State executive in 1998-99.

Mr Adrian Piccoli: Point of order: If members quote from the media they have to give not only the day and month but also the year.

ASSISTANT-SPEAKER (Ms Alison Megarrity): Order! Is the member for Maitland able to provide the date?

Mr FRANK TERENZINI: The fact is his racist views—

Mr Brad Hazzard: Identify the document.

Mr FRANK TERENZINI: I am not quoting.

ASSISTANT-SPEAKER (Ms Alison Megarrity): Order! I ask the member for Maitland to repeat the statement so I can check whether he is quoting.

Mr FRANK TERENZINI: I am not quoting. I am saying that this person is being endorsed and that his racist views are well known. On 13 March 1998 the *Canberra Times* quoted him as stating:

> How long are the Aboriginal people of this country going to remain above the law?

That was said by the person being endorsed for the seat of The Entrance. As the member for Drummoyne said, this man was sacked by Pauline Hanson, but he has been taken under the wing of no less than the Leader of the Opposition. The Leader of the Opposition has endorsed this person who has come up through the ranks of that kind of party, and where does he find himself now? On the other side of the House. How embarrassing it must be for Liberal members of Parliament. The member for Davidson and the member for Pittwater—new members of Parliament—suddenly find themselves in a mainstream political party in which, in the view of those on this side of the House, there is absolutely no room for this kind of extremism. That is unacceptable. When Pauline Hanson sacked him she was reported by Australian Associated Press of 13 October 2000 as saying:

> Chris Spence's job was basically a self-appointment. They failed to abide by moves to make the party more democratic.

The State Electoral Commissioner at the time, John Wasson, was reported by Australian Associated Press on 27 November 2000 as saying:

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

This person does not exactly have high marks in honesty. He is not exactly highly regarded as a man of integrity. But where does he find himself? On the other side of the House, endorsed by the Leader of the Opposition. I call on the Leader of the Opposition to do the right thing and to disendorse this candidate.

I wonder how many Liberals on the Central Coast feel comfortable about what is happening? It appears that the member for Hawkesbury and the member for Terrigal have no problem at all with this kind of person entering the ranks of the Liberal Party.

This says not as much about Chris Spence as it does about the Liberals and the member for Terrigal. This says more about members on the other side of the House and where they are headed than it says about the Liberal candidate himself. This is the type of person they want in their party—a mainstream party. This is a worrying concern for all of us when we see people who consider themselves an alternative government put up and endorse a person with those kinds of credentials. This is a worrying trend and I call on the Leader of the Opposition to disendorse him and get rid of him.

Mr ROB STOKES (Pittwater) [3.44 p.m.]: The member for Maitland talked about the sorts of issues that the member for Davidson and I may have considered when we joined this place. The sorts of things we were concerned about were how we could better provide services for our communities and the failing state of our infrastructure. They are the sorts of things this Parliament should be focused on. In the final week or so of this parliamentary sitting is this the best the Labor Party can do? Is this really what it believes is the most important issue confronting the people of New South Wales when we could be talking about things such as better hospital services on the Central Coast; returning a full maternity service to the people of the Central Coast at Wyong Hospital; better access to ambulances; better provision of and financing for local emergency services; dealing with malicious damage and graffiti across the Central Coast; and roads and transport?

I argue that the time spent in this debate would be better spent on debating how this Parliament can better address the delivery of services in health, education, policing, transport, utilities and jobs—things that matter and things that make a difference. I believe the people of The Entrance would be happier and better served if the Government devoted the time allocated for this debate—a debate identical to one in this place last Thursday—to debating the infrastructure needs of the Central Coast. This motion is just part of a political game and a political soap opera. It does nothing to improve services in this State. It is a cynical diversion from Labor's obligation to govern for the people of the Central Coast and all the people of New South Wales.

This Government is showing the people of New South Wales the priorities of the Labor Government. The Labor Government is expert at politics, with backroom politics deciding Cabinet posts, and even the Premiership, not via the polling box or the people, but by factional deals that treat high offices as chattels. This motion demonstrates that the Labor Party is more interested in politics than policy, more focused on individuals than ideas and that it is a party defined more by internal deals than community democracy. I support the amendment moved by the member for Murrumbidgee because it demonstrates the simple point that when it comes to selecting candidates the parties on this side of the House are guided by democracy on the understanding that local communities are best placed to choose their political representatives and that head office intervention is generally wrong. The appointment of the current Premier by Labor head office is an excellent example of the failure of centralised control of political processes.

We have already debated this motion once. I have an idea for the other side of the House: Next time the Labor Party wants to bring another identical motion for this House to debate it should use the resources of this Parliament—paid for by the taxpayers of New South Wales—to talk about something that relates to the need for better services for the people of The Entrance. I know they would appreciate it if Labor focused on better services, not petty politics.

Ms ANGELA D'AMORE (Drummoyne—Parliamentary Secretary) [3.48 p.m.], in reply: I thank the member for Murrumbidgee, the member for Maitland and the member for Pittwater for their contributions—although I am sceptical about the contributions of the member for Murrumbidgee and the member for Pittwater, but I suppose I need to be polite at this stage. Who would even contemplate in this day and age a major political party endorsing someone who was once a grand puppetmaster for One Nation? He was a member of One Nation's New South Wales executive, the leader of the party's youth wing, One Nation's national president, an adviser to David Oldfield, and an electorate officer to the member for Terrigal. He is a man who lived and breathed the One Nation ethos; a man who made his living out of a party that wants to end immigration—all immigration—even though we are a multicultural society.

The Leader of the Opposition is treating the people of New South Wales with contempt. It is time he put up his hand and admitted that he got this wrong. He should not open the back door for One Nation to come back into the New South Wales Parliament. The people of this State need to know that they are not getting One Nation candidates dressed in Liberal clothing. I am disappointed at the member for Terrigal even considering employing a person of this status. Here is a person who has been in this Chamber—

Mr Chris Hartcher: Point of order: The member for Drummoyne has now made an attack on me and, Madam Assistant-Speaker, as you know and as you have ruled many times, that must be done by way of substantive motion. If the member wishes to debate—

ASSISTANT-SPEAKER (Ms Alison Megarrity): Order! I have heard sufficient on the point of order.

Mr Chris Hartcher: No! She was allowed to finish, so I should be allowed to finish.

ASSISTANT-SPEAKER (Ms Alison Megarrity): Order! I allowed the member for Murrumbidgee to make passing reference to the member for Drummoyne. I will allow the member for Drummoyne to make passing reference to the member for Terrigal.

Mr Chris Hartcher: If she wants to do it she should have to move a substantive motion

ASSISTANT-SPEAKER (Ms Alison Megarrity): Order! I remind the member for Drummoyne that attacks on other members must be made by way of substantive motion.

Ms ANGELA D'AMORE: The member is very precious about this issue, but we will move on. Former Leader of the Opposition Peter Debnam sacked the candidate for the electorate of Wyong at the last election for sending dirty joke text messages. He had standards. In contrast, the current Leader of the Opposition will not disendorse a former member of One Nation who engaged in racist activities against Aboriginal people. There is a point of difference. Members opposite should bring back Peter Debnam. Given the multicultural community in which we live, it is shameful that the Liberal Party preselection process could endorse a candidate such as this.

I note that the member for Murrumbidgee refused to debate this motion. He did everything in his power not to debate the issue. Why? Perhaps he is embarrassed about this preselection process and the calibre of the candidate endorsed for the electorate of The Entrance. Given his ethnic background, I think he is embarrassed about the candidate that the Liberal Party preselection process spat out, and he is covering that embarrassment by refusing to debate the issue. If members opposite believed that the appropriate candidate had been preselected they would have debated this motion. However, they chose to distract the House. I will not even discuss the member for Hawkesbury and his disgraceful display in this Chamber last week.

Mr Brad Hazzard: Point of order: The standing orders require that the member speaking in reply respond to matters raised during the debate, certainly not discuss a totally separate debate conducted last week or assail a member about viewpoints when he has not spoken on the motion before the House. Madam Assistant-Speaker, I ask you to ask the member to address the points raised during this debate.

ASSISTANT-SPEAKER (Ms Alison Megarrity): Order! I ask the member for Drummoyne to respond to the debate.

Ms ANGELA D'AMORE: I would love to debate the Opposition, but it has not given me the opportunity. Members opposite chose not to debate the motion or to tackle the issue, so that is a big ask from the member for Wakehurst.

Mr Chris Hartcher: It is your motion.

Ms ANGELA D'AMORE: Yes, but members opposite have chosen not put their position on the record today. Pauline Hanson, in her wisdom, recognised that she had made an error by having Mr Spence associated with her political party.

ASSISTANT-SPEAKER (Ms Alison Megarrity): Order! Members will remain silent. I am having difficulty hearing the member for Drummoyne.

Mr Brad Hazzard: Point of order—

ASSISTANT-SPEAKER (Ms Alison Megarrity): Order! The noise coming from Opposition members has made it very difficult for me to hear the member for Drummoyne. I am interested to hear the point of order of the member for Wakehurst because I could not hear what the member for Drummoyne was saying.

Mr Brad Hazzard: The member said that we have not said anything. That means that she cannot respond.

ASSISTANT-SPEAKER (Ms Alison Megarrity): Order! There is no point of order.

Question—That the words stand—put.

The House divided.

Ayes, 53

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

Noes, 34

Mr Aplin	Mr Hazzard	Mrs Skinner
Mr Baird	Ms Hodgkinson	Mr Smith
Mr Baumann	Mrs Hopwood	Mr Souris
Ms Berejiklian	Mr Humphries	Mr Stokes
Mr 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 R. C. Williams
Mr Fraser	Mr Piccoli	
Ms Goward	Mr Provest	*Tellers,*
Mrs Hancock	Mr Richardson	Mr George
Mr Hartcher	Mr Roberts	Mr Maguire

Question resolved in the affirmative.

Amendment negatived.

Question—That the motion be agreed to—put.

The House divided.

Ayes, 51

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

Noes, 36

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

Question resolved in the affirmative.

Motion agreed to.

ASSISTANT-SPEAKER (Ms Alison Megarrity): Order! Debate on the motion accorded priority having concluded, the House will now proceed to Government business.

INDUSTRIAL RELATIONS (COMMONWEALTH POWERS) BILL 2009

Agreement in Principle

Debate resumed from 25 November 2009.

Mr ANTHONY ROBERTS (Lane Cove) [4.07 p.m.]: On behalf of the Coalition I speak on the Industrial Relations (Commonwealth Powers) Bill 2009. At the outset, I inform the House that we will not be opposing the bill. As we know, the Howard Government's industrial relations reforms—or WorkChoices—were driven by a desire to modernise the national economy so it could remain internationally competitive as Australia moves from a manufacturing, agricultural, resources base to a knowledge economy, building on our traditional commodities and resources sectors. Their goals were to provide flexibility in employment options, productivity reforms and skills improvement.

As the House will realise, when the global financial crisis occurred around the world Australia's employment remained good and tens of thousands of people kept their jobs because of the reforms the Howard

Government had implemented with respect to employment options and the flexibility of Australia's modern workforce. It is something for which the Howard Government is to be commended. Today many people—mums and dads, grandparents and single people—owe their jobs, particularly in New South Wales, to those Howard Government reforms. The Rudd Government's fair work changes enacted earlier this year leave in place many of those Howard reforms that are desirable for businesses and workplaces in this twenty-first century.

The changes, which eliminated many costs and inefficiencies of nine separate systems, were based on the Commonwealth's corporations powers. Accordingly, only 85 per cent of all employees are covered. The current Fair Work system does not cover public sector workers, other than those employed in Federal agencies, or the employees of private employers, incorporated associations, sole traders, trusts, not for profit organisations and similar organisations.

The Workplace Relations Ministerial Council has agreed to further move to national workplace laws by amending the existing Fair Work legislation to allow States to refer their powers in respect of private employees from January 2010. The Government is seeking to have the legislation dealt with on an urgent basis to facilitate the January commencement and the Opposition is doing its utmost to assist. Therefore, my contribution will be brief. The legislation will maintain the existing State-based industrial relations system in New South Wales for public sector employees except employees of State-owned electricity and water companies, who will shift to the Federal system.

The New South Wales Liberals and Nationals support national coverage for employees of corporations. We have criticised the complexity and inconsistencies between existing State systems covering non-corporate employees because they cause problems for businesses operating across State borders. I pay tribute to the Hon. Greg Pearce for the wonderful work he has done on this bill. The Coalition supports the retention of State jurisdiction for the New South Wales public sector. We have said we will retain the State Industrial Relations Commission and explore ways to integrate the various tribunals to reduce complexity, duplication and cost. The appointment of seven Industrial Relations Commission members to Fair Work Australia and other measures at the Commonwealth's cost will be positive for the New South Wales budget. It is pleasing that this bill will result in some savings because usually legislation results in further costs and efficiencies for New South Wales taxpayers.

Whilst acknowledging that a Federal system is better than a patchwork of varying State systems, the Federal Coalition has opposed the Federal referral legislation and is critical, to some extent, about its implementation with respect to a lack of consultation with stakeholders and time frame for commencement of the Federal scheme, as well as the process specifically relating to the extent to which the Federal bill delivers control of the national system into the hands of State governments. There are further concerns federally about the terms of the intergovernmental agreement—if one State or Territory believes that an amendment undermines the fundamental workplace relations principles, that amendment will not proceed unless it is endorsed by a two-thirds majority of the States and Territories.

With respect to changes experienced within our workplace, it is important that we have an efficient workforce to compete overseas, particularly as we move towards a non-resource base export and service provision level of skills and that we improve those skills and employment. Therefore, the Coalition will not oppose the bill.

Mr FRANK TERENZINI (Maitland) [4.13 p.m.]: On 1 January 2010 New South Wales begins its partnership with the Commonwealth and the other States, except Western Australia, under a single national industrial relations system. That being the case, it is my great pleasure to support this momentous and historic bill, the Industrial Relations (Commonwealth Powers) Bill 2009. For the first time this will bring together all parties to the new national system, providing the benefits of stability and uniformity within a fair, modern and flexible system. Our national system will be characterised by cooperation between the Commonwealth and the States, with New South Wales actively participating in the new system. The cooperative nature of the new system will ensure that the interests of employers and employees in New South Wales will be properly considered now and into the future.

Australian employers and employees will benefit from the equity in employment conditions and arrangements, providing for the first time a level playing field for business across the nation. Every private sector employer and employee in New South Wales will be included in the national system. State public sector and local government employees will remain within the New South Wales industrial relations system. Employers and workers in New South Wales will reap the benefits of our new industrial relations system. The

cornerstone of this brand-new national system is the good faith bargaining system, underpinned by a strong and fair safety net. In addition, as currently enjoyed in New South Wales, employers and workers will be able to enter into collective agreements at the enterprise level. There will be a special low paid bargaining stream to support workers in industries where workers traditionally have little bargaining power.

Important innovations to transfer of business provisions will ensure that employees will retain their pay and conditions under their workplace agreements when they transfer to a new employer. Strong and fair provisions will be in place to ensure workers have freedom of association. Unions will have rights under the law for their officials to access workplaces and employees. Commencing on 1 January 2010, the 10 National Employment Standards, together with modern awards, will form the strong simple and fair safety net within the national system. The standards will apply to all workers in New South Wales, whether or not they are covered by a modern award.

These entitlements include set maximum weekly hours of work, annual leave, long service leave, public holidays, notice of termination and redundancy pay. The other standards include the right to request flexible working arrangements, parental leave, personal-carer's leave, compassionate leave and community service leave. These are comprehensive protections, restored to Australian workers after the disaster of the WorkChoices laws. However, these protections will not impede flexibility. Each worker will have the ability to enter into an individual flexibility arrangement with their employer that will form a part of their terms and conditions of employment under their modern award. These individual flexibility arrangements will be subject to a better off overall test to ensure fairness.

A Fair Work Information Statement for all employees that makes clear their rights and entitlements under the new system and how to get advice and help is also one of the standards. The Australian Industrial Relations Commission has been charged with the task of modernising Federal awards. The commission has consulted widely with industry parties through four stages of exposure drafts to produce the modern awards that will, together with the national standards, underpin the new system.

On 1 January 2010 private sector employees already part of the national system will move from their awards onto an appropriate modern award. Employees of trading corporations who are covered by notional agreements preserving State awards and preserved State agreements will also move onto an applicable modern award. Each modern award will provide transition arrangements to cushion employers or employees who would be disadvantaged in an immediate move into the new provisions. Additional protections provide for Fair Work Australia to make a special take-home pay order to compensate any employee whose pay may be impacted by the move to a modern award.

Employees of employers who are sole traders, partnerships, trusts or non-trading corporations, who were previously in the State system, will join the national system on 1 January 2010. There are special arrangements in place for these employers and employees to allow a smooth transition into the new system. The wages and conditions contained within their current New South Wales State awards will continue to apply for a period of 12 months from the referral commencement. After that time workers will move onto the appropriate modern award. Transitional arrangements may be applied for any workers who face any significant decreases to their pay, ensuring fairness. Both Industrial Relations New South Wales and the Fair Work Ombudsman will continue to provide information, advice and assistance to workers and employers about their pay and conditions.

Workers will have protection from unfair dismissal under the new national system. Employees who believe they have been unfairly dismissed may apply to Fair Work Australia for a remedy. Fair Work Australia will also offer remedies to employees who have been unlawfully terminated on the grounds of discrimination and on certain other grounds. Our unified national system is an important progression for New South Wales employers and workers. We have worked hard together with the Commonwealth for the last two years to build this strong and fair national industrial relations system. New South Wales has long held a strong position regarding the need to work cooperatively with the Commonwealth and other States to achieve the best possible national industrial relations system—and we have finally done so with this bill. The other basic requirement was that the new system does not leave New South Wales employers and workers worse off. The new Fair Work system achieves this goal. For these reasons, I commend this bill to the House.

Ms NOREEN HAY (Wollongong) [4.19 p.m.]: The purpose of the Industrial Relations (Commonwealth Powers) Bill 2009 is to facilitate the participation of New South Wales in the national industrial relations system. The bill will effect the referral to the Commonwealth of the power to legislate with respect to industrial relations matters in the unincorporated private sector. This will result in the simple and fair

system established by the Fair Work Act applying to all workers in the private sector in New South Wales and across most of Australia. As other members have said, this is an historic development. The majority of governments in our country have come together to establish a simple, fair and equitable system. As far as the workers of this country are concerned, it is about time they were assisted and treated with more respect than they were under the Howard regime.

In the creation of systems at a national level there is always a risk that regional areas miss out. The arrangements put in place by the Rees and Rudd governments in the creation of the national industrial relations system will ensure that this is not the case. In my region, the Illawarra, the New South Wales and Commonwealth governments will establish the key infrastructure that will ensure that the national industrial relations system works. Fair Work Australia will establish a full-time presence in the Illawarra. As the tribunal that will administer the Fair Work Act, Fair Work Australia will share premises with the Industrial Relations Commission. Workers, businesses, unions, lawyers and employer associations based in the Illawarra will not have to travel to Sydney to have their matters heard. They will be able to register their agreements in Wollongong, resolve their disputes in Wollongong and deal with their unfair dismissals in Wollongong. The Government recognises that the Illawarra is a major industrial and regional centre and deserves nothing less than this.

The establishment of Fair Work Australia in Wollongong does not mean that the Government will be lessening its commitment to maintaining the Industrial Relations Commission in the Illawarra. The Government is committed to maintaining the commission, which will continue to hear industrial disputes concerning the State public service and local government sector. It will continue to resolve disputes for parties covered by the Fair Work Act, including BlueScope Steel. Sitting as the Industrial Court, it will continue to hear occupational health and safety matters, as well as hear matters under the Fair Work Act as an eligible State court. The Industrial Relations Commission and Fair Work Australia will work closely together to ensure that the Illawarra gets the best possible service.

Across New South Wales seven members of the Industrial Relations Commission will be appointed to Fair Work Australia. One of these appointments will be primarily based in Wollongong, with a further two members undertaking work in Wollongong on a regular basis. To assist with the implementation of the new system, arrangements have been made for a continuing role for New South Wales Industrial Relations in providing industrial relations expertise to employers and employees across New South Wales. Workers in the Illawarra region will continue to receive support from New South Wales Industrial Relations through its compliance and education programs. In delivering these programs, New South Wales Industrial Relations will work closely with the Fair Work Ombudsman.

The introduction of a new national system may create some uncertainty for unincorporated businesses making the transition. It will be the role of New South Wales Industrial Relations to ensure that employers and employees in the Illawarra region are prepared for the implementation of the Fair Work system. In preparation for this, New South Wales Industrial Relations will publish detailed information for employers on its website. This information will be aimed at acquainting employers with the changes to their workplace industrial relations arrangements. The website will also be enhanced to include information on modern awards. It is important that throughout this period of change employers and employees in the Illawarra region are provided with comprehensive advice on the new system.

In 2010 New South Wales Industrial Relations will undertake a comprehensive educational campaign in the Illawarra. It is planned that more than 3,000 workplace visits will be undertaken. In the following two years a further 6,000 employers will be visited across the region, to ensure participants are fully aware of their obligations under the new legislation. In the last financial year New South Wales Industrial Relations identified more than $300,000 in wages and underpayments for Illawarra workers. This year New South Wales Industrial Relations has already conducted workplace inspection campaigns covering more than 1,500 Illawarra employees and has conducted more than 220 investigations. To complete the educational process, New South Wales Industrial Relations will deliver a range of seminars to employers in the region in 2010.

I am pleased to support the bill because the Rees and Rudd governments are putting in place the institutional arrangements to make the national industrial relations system work for the businesses and workers of the Illawarra. As the member for Wollongong who in a past life was a trade union official in the Illawarra—

Mr Paul Gibson: And a good one.

Ms NOREEN HAY: Thank you. As a trade union official in the Illawarra, for many years I tried to represent people so they could be treated fairly under the Howard Coalition Government, with clearly an unfair attitude in relation to workers, which was WorkChoices. Of course, it was WorkChoices that led to the demise of the Howard Government—thank goodness on behalf of workers. I congratulate Kevin Rudd and Nathan Rees on working together, with the assistance of Julia Gillard, to deliver what is an innovative opportunity for workers to be treated fairly. I commend the bill to the House.

Mr PETER DEBNAM (Vaucluse) [4.26 p.m.]: I also am pleased to say a few words on the Industrial Relations (Commonwealth Powers) Bill 2009. I will be very brief, not only because I have been laid low with the flu for a week but because I simply want to make a couple of points.

Mr Paul Gibson: We missed you, too.

Mr PETER DEBNAM: Thank you, Gibbo. I agree with many of the comments of the member for Wollongong, funnily enough. As the member said, this is about harmonising industrial relations laws across Australia. I hope that eventually other States get on board and adopt such legislation, because it makes common sense. It is not the first time that this Parliament has heard about the concept of harmonising industrial relations laws across Australia, because that is exactly what the Coalition took to the last election. It is unfortunate that at that time it was under the regime of WorkChoices. I think everyone in Australia has now clearly acknowledged that John Howard pushed the WorkChoices legislation too far. He paid for that, and to some extent we paid for it as well. Labor was able to tie in what the Coalition was trying to do in terms of harmonising industrial relations laws with the WorkChoices regime in Canberra.

Quarantining State public sector workers is obviously again what the Coalition was talking about. It simply makes sense. It is important that public sector workers stay with their most immediate employer, which in New South Wales is effectively the Government. I want to make the point that when we went to the last election I think all schoolchildren across New South Wales were able to say to their parents, "Why is Peter Debnam transferring industrial relations powers to Canberra?" That was a result of the saturation television advertising. As I said, it was unfortunate that that was tied in with WorkChoices. However, the message is: Here we are three years later and Labor is doing exactly the same thing.

There will be a debate in this Parliament and Labor's sophists will explain to us that there are certain protections in what they are doing that are different to what the Coalition was going to do. But that is not the case. This is all about harmonising industrial relations across Australia. It makes a lot of sense, and it is good to see it. But the clear message on this issue for this Parliament and for the people of New South Wales is: Go back to the election; go back to the saturation television advertising. What Labor is doing today is what it told the people of New South Wales was a very bad thing, and that the Coalition was about to do it. The clear message for the people of New South Wales on industrial relations issues, and on every other issue, especially in the lead-up to the next election, is: Do not listen to what Labor says; look at what it does.

Mr ALAN ASHTON (East Hills) [4.30 p.m.]: I appreciate the words of the member for Vaucluse. Before he leaves the Chamber I suggest that perhaps with the Industrial Relations (Commonwealth Powers) Bill and the events that have transpired in Canberra today he has seen the revenge of the budgie smugglers. It was no fluke that the Government went to the last election in New South Wales championing the rights of the protection of workers against the very cruel WorkChoices legislation of the former Federal Government. We should not forget that at one stage the former Federal Government brought in Kevin Andrews—who was the stalking horse used last week to knock off Malcolm Turnbull—to introduce WorkChoices.

When it was recognised that that bill would be a vicious attack on workers and would have a dramatic impact on all sorts of people in the community, Mr Nice Guy Joe Hockey was brought in to make it seem more acceptable. It is interesting to see where Mr Hockey stands today, having been duped into running in a Federal ballot and coming third. If Joe Hockey was going to have a stellar career in the Liberal Party it was set back a couple of stars today. It will be interesting to see where he goes from here.

The Industrial Relations (Commonwealth Powers) Bill, known as the harmonisation bill, contains general protections for the national industrial relations system that were not included in the original WorkChoices bill. The bill proposes a referral of powers that will see approximately 500,000 workers entering the national industrial relations system. It is therefore essential for the House to consider the protections that the system will afford these workers. Members will be mindful of the effect of the WorkChoices laws, which stripped away protections from workers across this country.

The national industrial relations system features a comprehensive set of protections, benefits and entitlements for workers. The Fair Work Act, the principal Act in the new system, will ensure the right to freely exercise workplace rights without fear of victimisation or discrimination. Without such protections these rights would be meaningless. The Fair Work Act therefore provides workers and other persons with a streamlined set of general protections against discriminatory or wrongful treatment. The breadth of protection available to national system employees and other persons is impressive. These general protections mean that adverse action cannot be taken against a person because of the exercise or non-exercise of a workplace right.

A "workplace right" is defined broadly to include any benefit a person is entitled to under a workplace law or instrument and the ability to initiate or participate in a proceeding under a workplace law or instrument. Significantly, a workplace right also encompasses a situation where a person is able to make a complaint or inquiry to a person or body having the capacity under a workplace law to seek compliance with that law or a workplace instrument. Even prospective employees will have their rights protected. For example, an employee would be protected in a situation where an offer of employment is made conditional upon entering an individual flexibility agreement.

One of the notable features of the Fair Work general protection is the broad meaning given to "adverse action". For example, adverse action against an employee is not confined to the dismissal of an employee. In the case of an employer, it also encompasses injuring the employee in his or her employment, prejudicially altering the position of the employee or discriminating against employees. This means that an employer is broadly accountable for any detrimental action taken against an employee in his or her employment where it relates to a workplace right. Of course, it must be made clear that these protections are not confined to an employee acting in an employment context. They also apply to adverse action taken by a principal contractor—independent contractor—and an industrial association or an employer taking certain adverse actions against an employee. The term "trade union" can be substituted for the term "industrial association" in this context.

The important role played by the national system general protections is clear. A workplace right has little substance if detrimental action can be taken with impunity against a worker or another person who may wish to exercise that right. The ability to seek, without threat or interference, the enforcement of entitlements or compliance with an industrial law is at the heart of a successful and fair industrial relations system. This is where this bill significantly differs from the WorkChoices bill that became law in the last two years or so of the Howard Government. The system is also less effective if an employer can take action harmful to the employment of an employee pursuing their industrial rights without the affected employee having any recourse.

The protections are also important for the successful functioning of an industrial relations system, insofar as they protect the right of a worker to enter into various agreements and arrangements without undue influence or pressure being applied. Bargaining arrangements and agreements based on the genuine consent of the worker is a key factor in ensuring a fair and balanced workplace relations system. Another important entitlement is that workers and other persons should have accurate and truthful information about their workplace rights. This enables people to exercise those workplace rights in an informed manner. To this end the Fair Work legislation prohibits persons from making a false or misleading representation about another person's workplace rights or their exercise. In addition to protecting workplace rights from adverse interference, the Fair Work legislation enshrines certain basic rights. One of these is the right of freedom of association, which is a critical part of the Westminster system and the community in general—with the exception of bikies and people who are up to no good. The freedom of association is a cornerstone of workplace democracy.

The Fair Work Act protects freedom of workers and others to become members of a union or to refrain from such membership. Despite what the member for Vaucluse said, the Rudd Labor Government or another State Labor Government—as there most likely will be despite all the banging on by the *Sydney Morning Herald* and its infamous columnist who shall remain nameless but we all know him—can be trusted to be fairer with workers. There can be no doubt that WorkChoices played an important role in the election of the Rudd Labor Government, as did the commitment to an environmental trading system and a cap-and-trade carbon system. It will be interesting to see how this will unfold in Canberra over the coming months with the sceptics, the deniers and the flat earth society having taken over the Federal Liberal Party.

As I said, the Fair Work Act protects the freedom of workers and others to become members of a union or refrain from such membership. You cannot be forced to become a union member. The days of people sitting on the other side speaking about a closed shop and the production of a union ticket by a worker to be on a site are gone; the Government understands some unions are not happy with that. The matter has been debated and some criticism has been levelled at Julia Gillard and the Federal Government for not going as far as some unions would have liked. The right balance to move those 500,000 workers to a more harmonised situation across the

country has been achieved in the bill. It also protects access to collective representation in the workplace for employees. Employees are protected if they want to be part of a union or workplace organisation, they are protected if they want to be in collective representation and they are also protected even if they do not want to be.

The Fair Work Act also protects the right of persons to engage or not engage in various industrial activities. The right to participate in industrial activities is an important aspect of the protection and vindication of worker entitlements. It is not like the 1970s and 1980s when certain outrageous actions were taken, for example, when wildcat strikes were called on building sites as concrete pours were about to happen, resulting in the concrete being virtually tipped into the gutter and going off. No-one denies that those sorts of actions took place in the old days. Nor does anyone deny that people were harassed physically, emotionally, sexually or whatever to comply and work for less wages or poorer conditions. The right to participate in industrial activities is an important aspect of the protection and vindication of worker entitlements. A person cannot, for example, take adverse action against a person who becomes involved in establishing an industrial association or engages in certain conduct in relation to the lawful activities of an industrial association.

Another important feature of the Fair Work general protections relates to workplace discrimination directed at an employee or prospective employee by an employer. An employer cannot take adverse action against a person because of a person's race, colour, gender, sexual preference, age, physical or mental disability, or marital status. Other prohibited grounds of discrimination under the Fair Work Act include family or carer's responsibilities, pregnancy, religion, political opinion, national extraction or social origin. Members would agree that society is a mixed group and that this is a great protection, which catches just about every organisation, group, race, sex, marital status or physical condition.

The antidiscrimination protections are extensive. They cover a range of detrimental employer actions against employees in relation to their employment. This goes beyond the previous concept of unlawful termination. These broad protections are available to all national system employees. They provide flexible remedies and may well contribute to the fostering of a work culture of tolerance and diversity. It is clear that those New South Wales workers who will soon be participating in the new national workplace relations system can look forward to the extensive protections offered by this new national system. They can be assured that these protections will be familiar to anyone who is aware of the strong freedom-of-association protections and sanctions against victimisation that are contained in New South Wales legislation. They also can be secure in the knowledge that these general protections will help guarantee their fair and effective participation in the new national system.

The comments of the member for Vaucluse were, in a sense, a justification for the campaign he ran for the 2007 election when he suggested that he would sack 20,000 public servants and would not indicate whether he opposed WorkChoices legislation. In his speech he criticised the Government. Our legislation is a long way from the WorkChoices legislation that John Howard brought in, ably supported by Tony Abbot, Joe Hockey, Malcolm Turnbull and many others. The member for Vaucluse asked who could trust the Government on the Fair Work legislation.

Following the events of today in Canberra, the question is who can trust the Liberal Party and its sceptical deniers in the Coalition, the once great National Party. I apologise for using that term, I should have said "the once great Country Party". When I was a kid my dad was a stockman. I suspect that he had a lot of time for the Country Party because it represented the ordinary man and woman on the land. Then it changed its name to the National Party and concerned itself with occupying seats on the beaches. Times have changed and we have moved on. I would like to see the good old days when the Country Party wagged the dog. This is a good and fair bill. I thank the Opposition for its support and I appreciate the comments of the member for Vaucluse, even though they were a mea culpa for his role in the 2007 election.

[*Business interrupted*.]

BUSINESS OF THE HOUSE

Suspension of Standing Orders: Routine of Business

Mr JOHN AQUILINA (Riverstone—Parliamentary Secretary) [4.41 p.m.]: I move:

That standing orders be suspended at this sitting to permit:

(1) the postponement of the matter of public importance until 7.30 p.m.;

(2) consideration of Government business following the conclusion of the matter of public importance; and

(3) the House to adjourn on motion.

Mr DARYL MAGUIRE (Wagga Wagga) [4.42 p.m.]: The Opposition anticipated that in the last week of sitting there would be confusion on the Government side about the business of the House. We do not oppose the motion. Generally we would oppose such a motion, but we understand that the Government is trying to tidy up business so that we can all leave for the Christmas break. From my observation, some members want to get out of here a lot quicker than others.

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

Motion agreed to.

INDUSTRIAL RELATIONS (COMMONWEALTH POWERS) BILL 2009

Agreement in Principle

[*Business resumed.*]

Mr MATTHEW MORRIS (Charlestown) [4.43 p.m.]: It is with pleasure that I speak on the Industrial Relations (Commonwealth Powers) Bill 2009, which facilitates the involvement of the New South Wales Government in the national industrial relations system. The decision to participate follows constructive negotiations with the Commonwealth and will see a national system that is balanced and fair for all employees and employers. Commencing on 1 January 2010 the new national system will provide administrative and economic benefits to business through a simplified and standard system across Australia.

The Government's agreement to join the national system will affect approximately 500,000 employees working for the 200,000 unincorporated employers under the current New South Wales industrial relations system. A large number of these employers and workers are located in the Hunter region, which is one of the great industrial and commercial regions of the State. The Hunter has had its share of industrial conflict; it has been the scene of many major disputes. Thankfully, over the past two decades the Hunter has developed a reputation as a region in which disputes are settled through constructive negotiation, conciliation and arbitration. Constructive, sensible and moderate industrial relations are now the norm.

This metamorphosis has been guided by the diligent work of the Industrial Relations Commission of New South Wales. The central role of the commission has the widespread support of employers and unions in the Hunter. This role is set to continue under the national industrial relations system. I am very pleased that Fair Work Australia will establish a presence in the Hunter. This will be the first time Fair Work Australia establishes a tribunal outside a capital city. Fair Work Australia will share premises with the Industrial Relations Commission, creating a one-stop shop for all employment law matters in Newcastle. This will ensure that employers and employees in the Hunter have direct access to the tribunal responsible for the Fair Work Act. It will ensure that disputes can be handled locally and quickly, that agreements can be registered locally and quickly, and that unfair dismissals will be resolved locally and quickly.

The establishment of Fair Work Australia in Newcastle will be augmented by the appointment of two members of the Industrial Relations Commission as members of Fair Work Australia based in Newcastle. These appointments will be on a part-time basis, with the members spending the remainder of their time in the Industrial Relations Commission. I stress at this point that the Government is committed to maintaining the Industrial Relations Commission as a major court and tribunal, including its presence in Newcastle. This will ensure that public service employees and local government workers have direct access to an industrial tribunal. It will ensure that parties in the national system have direct access to the commission for dispute resolution. It will also give the legal and industrial relations community in Newcastle ongoing access to the Industrial Court, which has been listed as an eligible State or Territory court for the purposes of the Fair Work Act. This will ensure that the complete range of employment matters will be able to be addressed in Newcastle, rather than at some distant location.

Employers and workers in the Hunter will also need new services to understand and work within the new national industrial relations system. To ensure that employers and employees are fully informed about their rights and responsibilities it is essential to educate them now in preparation for the transition. The New South Wales Government is committed to ensuring businesses in the Hunter are competing fairly and complying with their responsibilities as employers. The New South Wales Government is also committed to protecting the entitlements and working conditions of employees in the region. We will work closely with the Commonwealth to ensure businesses in the Hunter and across New South Wales have a smooth transition to a harmonised

national system. It is important that employers have a thorough understanding of industrial relations legislation and their obligations. The Office of Industrial Relations will continue to provide expert advice and assistance to employers and employees in the Hunter region during the transition to the new national system.

Over the past five years inspectors from the Office of Industrial Relations have conducted nearly 9,000 workplace inspections in the Hunter region. These inspections identified more than $2.1 million in unpaid wages and entitlements for workers. In 2010 the Office of Industrial Relations will visit approximately 4,000 Hunter businesses to provide information to employers about the new national system and assist them with their transitional arrangements. During these visits employers will also be advised how to access further information on modern awards and the new system through our online services. These visits will be delivered as part the of the Government's election commitment to visit 50,000 workplaces during its present term.

Each year the Office of Industrial Relations holds free employment workshops and seminars throughout the State. The workshops are designed to give practical help to business owners and managers to enable them to understand their rights and responsibilities. In 2010 these workshops will continue and include information on modern awards, National Employment Standards and transitional arrangements to the new national system. Workshops will provide an informal setting for employers to share their experiences with other business owners and the opportunity to speak in person to an officer from the New South Wales Industrial Relations Commission. New South Wales inspectors will continue to investigate complaints in relation to the New South Wales Industrial Relations Act 1996. New South Wales inspectors also will undertake investigations under the new system, working in partnership with inspectors from Fair Work Australia who are also based in Newcastle.

The Government's participation in the national system will ensure workers in the Hunter region continue to receive protection and the enforcement of their entitlements. The New South Wales Government is looking forward to working with the Commonwealth to deliver a harmonious national industrial relations system for employers and employees. Our aim is to ensure a smooth transition for private sector unincorporated businesses and their employees across the State. The Hunter is a region of strategic economic, industrial and social importance for the State. The arrangements agreed between the Commonwealth and New South Wales governments will ensure that employers and workers across the Hunter can face the new national industrial relations system with confidence. I commend the bill to the House.

Mr ROBERT COOMBS (Swansea) [4.50 p.m.]: The Industrial Relations (Commonwealth Powers) Bill 2009 facilitates the establishment of a cooperative national industrial relations system for the private sector. To achieve that end, the bill refers to the Commonwealth the powers of the New South Wales Government to legislate with respect to industrial relations matters in the private sector. Currently these powers apply to sole traders, partnerships and non-trading corporations. The bill provides for New South Wales' participation to ensure that the new national system works in the best interests of employers and employees in this State.

The bill has been crafted to ensure that it fits with the referral framework set out in the Commonwealth's Fair Work Amendment (State Referrals and Other Measures) Bill. The Commonwealth bill will accept referrals in accordance with its terms from any State that wishes its referral, to take effect from 1 January 2010. The House will appreciate that it is not by chance that the Commonwealth bill, the State bill and also legislation introduced by the other referring States of Victoria, South Australia, Tasmania and Queensland, all dovetail so neatly. The provisions of all these bills are a testament to the close working relationship built between the various governments since the election of the Rudd Government. All of these governments are committed to replacing the divisive WorkChoices system with the new Fair Work system.

Closely following the Rudd Government's election in November 2007, a Workplace Relations Ministers Council meeting was held in Melbourne on 1 February 2008. At this historic meeting, the first of many held in the subsequent two years, the Ministers commenced the hard work of preparing and developing the legislative and other arrangements that have led us to this point. The result is that this place is now considering legislation that will create a truly national workplace relations system. I quote from communiqué WRMC 75 from that meeting:

> Ministers discussed options for achieving a genuinely national, uniform and stable workplace relations system. Ministers endorsed Forward with Fairness as providing the basis for a modern, fair and flexible workplace relations system and in that context noted the Williams report. Ministers agreed to engage actively on the development of the Federal Government's substantive workplace relations reforms.
>
> Ministers agreed to create a high level officials group to collaborate on the development of the new system and its interface with State systems.

Members will note the reference to the Williams report. This was a report into the optimum way to create a truly national workplace relations system that was commissioned by the New South Wales Government in 2007. In other words, the New South Wales Government started the ball rolling on thinking about the best way to get this system up and running. The House will note also that the communiqué describes the processes put in place to manage the development of the new system and its interface with State systems. The development of the national system—the legislation as well as the intergovernmental arrangements—has been a collaborative process since day one, involving both the ministerial council and the high-level officers group.

Apart from the Fair Work legislation and the referral of powers framework, one of the major achievements of these processes has been the negotiation and finalisation of the multilateral intergovernmental agreement, which constitutes the new national system as a collaborative partnership amongst the participating jurisdictions. The basic principles underlying the multilateral intergovernmental agreement are also given legislative expression in the interlocking referral legislation of the Commonwealth, this State and the other participating States.

They are called the fundamental workplace relations principles and comprise a strong, simple and enforceable safety net of minimum employment standards; genuine rights to ensure fairness, choice and representation at work; collective bargaining at the enterprise level, with no provision for individual statutory agreements; fair and effective remedies available from an independent industrial umpire; protection from unfair dismissal; an ongoing commitment to an independent tribunal system; and an independent authority able to assist employers and employees within the national system. They are the touchstone for ensuring that the Fair Work Act develops in the fair and decent manner intended by the participating governments.

The multilateral intergovernmental agreement requires any amendment to the Fair Work Act that compromises these principles to be agreed to by a minimum of a two-thirds majority of participating governments. If a two-thirds majority vote does not support an amendment, the Commonwealth has committed itself under the multilateral agreement not to proceed with that amendment. This is a significant measure, demonstrating the commitment of all parties to the core principles and to meaningful consultation and debate about whether they are being adhered to.

The agreement stands in the way of the extremism and unilateralism of WorkChoices. It aims to ensure that the Fair Work Act is developed on the basis of amendments that have widespread support. This demonstrates that the new national system will be a joint endeavour amongst the participating jurisdictions. The New South Wales Government is not walking away from its industrial relations responsibilities by referring relevant power to the Commonwealth. Rather, those responsibilities will now be exercised in a national arena where New South Wales stands as an equal with the Commonwealth and other State governments. This is the essence of cooperative federalism. I commend the bill to House.

Mr GERARD MARTIN (Bathurst) [4.57 p.m.]: I join my colleagues in supporting the Industrial Relations (Commonwealth Powers) Bill 2009. I will speak about the issues as they affect particularly regional New South Wales, part of which I represent. Over the past decade industrial relations has become a much more important issue in the regions due to the battle over WorkChoices introduced by the then Howard Federal Government. It certainly alerted many people to the importance of industrial relations and of having a fair and coherent system. I believe everyone would applaud the move to a national industrial relations system. In the past the Government has resisted that because of the attitude of the Conservative government in Canberra, but the landscape is now clear for us to move in that direction and I am pleased to support the Government's endeavours.

By referring to the Commonwealth the power to legislate with respect to private sector industrial relations matters, the bill facilitates the involvement of New South Wales in a new national industrial relations system. The bill comes on the back of constructive negotiations with the Commonwealth and will see New South Wales entering a national system that is balanced and fair for all participants. The new simplified national system is set to commence on 1 January 2010 and will provide administrative and economic benefits to businesses right across the State.

The Government recognises that it is important to ensure that employers and employees entering the new system are fully informed about their rights and responsibilities in preparation for the transition. This will be particularly important in regional New South Wales. Industrial Relations will work closely with the Fair Work Ombudsman to ensure that businesses have a smooth transition to a harmonised national system. To assist

in the transition to the new system Industrial Relations will provide weekly updates on its website. In addition, a free "what's new" subscription service will be introduced to automatically send weekly updates to subscribers. That is particularly important to people in the regions.

Industrial Relations will also continue to provide expert advice and assistance to employers and employees in regional New South Wales. As part of the transition during 2010 Industrial Relations staff will undertake an initial 15,000 education visits across New South Wales to assist businesses moving to the new system. This will focus on small businesses located in regional areas. Industrial Relations will utilise its network of regionally based compliance staff to undertake these visits. After the initial visits Industrial Relations inspectors will undertake a further 15,000 workplace visits over the following two years providing continuing support to small business. These visits form part of the Government's election commitment to undertake 50,000 workplace inspections during its current term. It is well on target to achieve that. As part of the visits Industrial Relations staff will provide employers with details about how they can access current information about modern awards and the new system.

As part of the transition to the new national system Industrial Relations will roll out a series of free information workshops and seminars throughout the State. The workshops will provide practical help to business owners and managers to enable them to understand their rights and responsibilities. In 2010 these workshops will include information on modern awards, the national employment standards and the transitional arrangements to the new national system. The Government is committed to providing compliance services across regional areas in the State. In the past financial year Industrial Relations inspections identified more than $2.5 million in unpaid wages and entitlements for workers in regional New South Wales. A good part of that was identified in my electorate.

Under the new system employees will still have access to complaint lodgement service and free advice. As part of the agreement with the Commonwealth, New South Wales Industrial Relations inspectors will continue to investigate complaints in relation to New South Wales industrial relations legislation. In addition, New South Wales inspectors will also undertake investigations under the new system working in partnership with inspectors from the Fair Work Ombudsman. The established regional presence of New South Wales inspectors will ensure that workers in regional areas will continue to receive protection and, importantly, the enforcement of their entitlements. The New South Wales Government is looking forward to working with the Commonwealth to deliver a harmonious national industrial relations system for employers and employees alike.

The Government also recognises the significant contribution that regional New South Wales makes to the State's economy. Regional New South Wales has a varied economic base, particularly in the Central West, which is involved in agriculture, mining and manufacturing, and all forms of employer organisations are represented. We also have various unions representing workers with the necessary skills to undertake those jobs. We have a critical mass that must be addressed and this Government's compliance arrangements, as implemented by Industrial Relations, demonstrate that it is keen to do that. The Government is also committed to providing continued support through industrial relations services and programs. We realise that the industrial relations scenario will always be a work in progress, but our aim is to ensure a smooth transition for private sector unincorporated businesses and their employees across the State. I am happy to commend the bill to the House.

Mr GEOFF CORRIGAN (Camden) [5.05 p.m.]: I am happy to join my colleagues in supporting the Industrial Relations (Commonwealth Powers) Bill 2009. This bill enables the creation of a truly national industrial relations system for the private sector. The majority of State and Territory governments and the Commonwealth have reached an unprecedented level of agreement about what this system will look like. It is not only a truly national system; it is also a fair one. A fundamental aspect of the fair work system that I intend to address today is the right to pursue remedies for unfair dismissal. The current unfair dismissal provisions in the New South Wales jurisdiction have existed since July 1991. They provide most employees in this State with the right to contest an unfair dismissal and all employers with a right to a fair hearing.

The former Commonwealth Government's WorkChoices laws stripped away the rights of many Australians to have an unfair dismissal remedied. However, on 1 July 2009 the current Commonwealth Government restored these rights to employees under the Fair Work Act 2009. That Act reintroduced the same protection from unfair dismissal to contract employees, seasonal workers and casual employees that they enjoyed under the New South Wales jurisdiction. Fair Work Australia, the tribunal that will administer the Fair Work Act, will continue the procedure used by the New South Wales Industrial Relations Commission of exhausting all possibilities of resolving a claim of unfair dismissal by conciliation before the matter needs to be

determined in a more formal hearing. In considering whether the dismissal was harsh, unjust or unreasonable, Fair Work Australia will continue to take into account factors that have been considered by the New South Wales Industrial Relations Commission to determine unfairness. Like the New South Wales Industrial Relations Commission, Fair Work Australia uses the legislative test of a fair go all round, which has applied to unfair dismissal cases in New South Wales since 1971.

The Fair Work Act has restored the balance for millions of Australian employees and continues the protection that was afforded to employees in the New South Wales jurisdiction against harsh, unjust or unreasonable dismissal. Similar to the powers of the New South Wales Industrial Relations Commission, Fair Work Australia can dismiss an application and, alternatively, reinstatement or re-employment may be ordered. Where it is inappropriate to reinstate the employee, Fair Work Australia can order the payment of compensation. The maximum amount of compensation is capped at similar amounts as the cap under the New South Wales Industrial Relations Act 1996.

The Fair Work Act 2009 also introduces new easy to follow rules for small business employers which ensures there is a fair go all round for small business employees and employers. If a small business with fewer than 15 full-time equivalent employees follows the Small Business Fair Dismissal Code it will have fairly dismissed an employee. A small business employer can summarily dismiss an employee without notice or warning where the employee's conduct is sufficiently serious to justify it. The code makes it clear for small business employers that serious misconduct includes theft, fraud, violence and serious breaches of occupational health and safety procedures. For other dismissals, a small business employer must give the employee a reason why he or she may be dismissed based on the employee's conduct or capacity to do the job. The code requires that the employee be provided with the opportunity to respond to warnings and a reasonable chance to rectify the problem.

The code restores rights to employees stripped away by WorkChoices and provides a clear and simple set of rules for small business employers to follow. These special rules apply because it is recognised that small business employers have few resources to deal with complex staffing issues. Small business employers can also download a checklist from the Fair Work Australia website to check whether they have followed the code. In accordance with the Fair Work Act 2009, Fair Work Australia has established procedures for dealing with unfair dismissals that are quick and flexible and maintain a fair go all round for employees and employers. The procedures and protections under the Fair Work Act 2009 concerning unfair dismissals reflect the rights that employees and employers have enjoyed in the New South Wales jurisdiction.

The Government will continue to monitor the operation of the Fair Work Act 2009 and associated legislation and maintain its important role in the development of the national system. This bill, coupled with its sister Commonwealth bill, the Fair Work (State Referrals and Other Measures) Bill and the associated intergovernmental agreement, ensures that the New South Wales Government is an active participant in the national system. The Government will work to ensure fair, equitable and productive industrial relations for the people of New South Wales. I commend the bill to the House.

Mr JOHN AQUILINA (Riverstone—Parliamentary Secretary) [5.09 p.m.]: I am pleased to support the Industrial Relations (Commonwealth Powers) Bill. It is extremely important and absolutely fundamental to the whole aspect of industrial relations in this State and nation. Members opposite may wonder why we on this side of the House are so passionate about this bill. It is because it represents everything the Labor Party stands for: The rights of workers, the rights of employees, the opportunity to ensure that industrial relations in this nation are carried out in a fair and equitable manner, and that is something we have been campaigning for over a long time, particularly over the period of the Howard Government, with the kinds of industrial relations regimes introduced by that Government, and which were, in the end, the major reason why that Government was brought down.

This bill represents a historic milestone in the development and evolution of industrial law in New South Wales. It will provide the legal mechanism by which this State will transfer powers to the Commonwealth, enabling it to legislate exclusively with respect to all private sector employers in New South Wales. It will ensure that there is one industrial relations system in New South Wales which applies to all private sector employers located within the State. Constitutional issues regarding the application of the national system to non-trading corporations will cease to be of relevance or significance. This will be the first time that all private sector employers in New South Wales, including sole traders, partnerships and unincorporated trustees as well as incorporated bodies without significant trading activities will become subject to the one

national industrial relations system. Perhaps of greater significance for the State's workers is that the bill represents this State's commitment to a national industrial relations system containing a comprehensive range of protections for incoming employers and employees.

The new national system will feature a series of mechanisms whereby New South Wales can work collaboratively with the Commonwealth. An important aspect of this ongoing collaboration is the role to be played by the Industrial Relations Commission of New South Wales. What a far cry this is from what we had under the Howard Government, where there was no thought of collaboration, when the Howard Government worked directly opposite to everything that we in this State and in other Labor States around the nation were espousing as far as industrial relations were concerned.

The Industrial Relations Commission of New South Wales has a distinguished record of service to this State. Through its dispute resolution and award-making activities it has contributed to the achievement of industrial harmony and developed fair and balanced conditions of employment in this State. Our record stands for itself in that regard. If one looks back over years of Labor governments in particular one can see the industrial harmony that is so evident in this State. It is great that this will become nationwide through the collaboration between the State and the Commonwealth.

The New South Wales Government is keen to see that the collective wisdom of the commission, the skills of its members and its years of experience in the inner workings of various industry sectors does not go to waste. Therefore, the Commonwealth and New South Wales have agreed that members of the commission and the Industrial Court will be able to participate in the day-to-day functioning of the new system. It is great that we are going to have this kind of collaboration so as to ensure that experience and expertise that have been acquired over so many years can be universally applied.

This role has three aspects. Firstly, the arrangements to be put in place will include the appointment of a number of commission members as full-time and part-time appointments to Fair Work Australia, the tribunal that will administer the new national system. It will deal with resolution of disputes, assist parties in bargaining for enterprise agreements and resolve unfair dismissals. Seven members of the commission will be appointed to Fair Work Australia. This will result in dual appointments. The members will retain their membership of the Industrial Relations Commission and will be able to serve on both tribunals—a logical and sensible system. Three of these appointments will be on a full-time basis, four will be on a part-time basis.

These dual appointments will facilitate the establishment of Fair Work Australia in the Hunter and the Illawarra, moving Fair Work Australia beyond the capital cities and ensuring that these major industrial centres are well served under the national system, as they should be. Fair Work Australia will share the premises of the Industrial Relations Commission in Wollongong and Newcastle. These dual appointments also recognise the valued work our State commissioners have performed in these regions in maintaining industrial harmony.

The second aspect of the State tribunal's role in the new national system is a part of the enforcement regime. Regulations made under the Fair Work Act 2009 have prescribed the Industrial Court of New South Wales as an eligible State court and amendments to the Fair Work Act will cement this role in legislation. This means that national system prosecutions and recoveries can be processed through the Industrial Court. This mechanism has significant advantages for parties in that it will allow matters to be referred from the Federal Magistrates Court to the Industrial Court where the Industrial Court is a more appropriate venue for parties located in regional areas. Unlike the Federal Court, the Industrial Court will have the potential to sit outside the Sydney metropolitan area in a vast network of courthouses across New South Wales, again going to the people and having a vast impact upon regional New South Wales. The Industrial Court will be able also to handle recoveries of entitlements that involve entitlements under both State and Federal law, so we do not have these artificial barriers that may have existed in the past. They will now be overcome.

The third aspect of the role of the Industrial Relations Commission under the new national system is the provision of dispute resolution services. Under the Fair Work Act all enterprise agreements must have a dispute resolution clause. It is open to the parties to choose the commission as their preferred provider. Even under the WorkChoices laws many parties chose to access such services offered by the commission. The Government has ensured that the Industrial Relations Commission will continue to play an integral role in the new industrial relations system. It is something of which this State is proud, something that has decades of tradition and custom and law behind it and something that has served the people of the State well for a long time, and it is something that is so fundamental to how we understand industrial relations in this State. It is good to see that under the new system it will continue to play an integral role in the industrial relations system of the new regime.

This is not the final chapter of the Industrial Relations Commission but a new beginning as New South Wales—and we need to stress that new beginning—builds upon the excellent work and history of the commission over so many decades. It is a new beginning as New South Wales takes its place as a fully-fledged participant in the national workplace relations system. It will be a great period for all workers, not only in New South Wales but throughout Australia. It is wonderful to see this great collaboration between the States and the Commonwealth. We are delighted, honoured and proud of the fact that we in the Australian Labor Party, and as part of the Rees Government, are instrumental in bringing this about. I commend the bill to the House.

Dr ANDREW McDONALD (Macquarie Fields—Parliamentary Secretary) [5.17 p.m.]: The Industrial Relations (Commonwealth Powers) Bill 2009 involves a significant change to the structure of our industrial relations system. It is important that this House addresses how these changes may impact on young workers, who, collectively, are one of the most vulnerable groups in the workforce. These young workers also hold the hopes for our future. The bill will ensure that young workers are covered by a system that provides fundamental protections. Today a significant proportion of young people get their first jobs while still at school. The first job remains a significant rite of passage. This work experience makes a positive contribution to the lives of these young people and allows them a window into the world of employment. It gives them some economic independence, and this work experience will stand them in good stead when they eventually seek to become full participants in the labour market.

Everyone in this House remembers their entry into the workplace. My own $17.10 for a 40-hour week selling shoes in 1970 remains my most memorable pay packet. Because of their youth and inexperience, young workers are a particularly vulnerable group. That is why the Government recognises the importance of protecting these young workers from exploitation or unsafe work practices. For policymakers, the crucial question is what is the best way of ensuring that young workers get the most out of their working experiences without being at risk of being ripped off. The policy solution is a robust industrial relations system with a comprehensive set of minimum standards that cannot be excluded and are supported by industry-specific provisions.

The Fair Work Act 2009 provides such a system. One of the biggest criticisms this Government had about the WorkChoices system concerned statutory individual contracts known as Australian workplace agreements [AWAs]. My inaugural speech, nine months before the defeat of the Howard Government, predicted correctly that families would vote the Howard Government out because of the effect that the WorkChoices legislation would have on the future of their children. These pernicious Australian workplace agreements could strip away the award entitlements hard won by employees and unions over decades. Expecting young workers to bargain individually with their employers for an Australian workplace agreement and not end up with a worse deal was a foolish and dangerous thing to do. During the WorkChoices era there were many reports of young people being offered free videos instead of penalty rates and being asked to work unreasonable hours or to work for extended periods of so-called trial work without pay.

The New South Wales Government took steps to protect young workers in this State from such exploitation. The Industrial Relations (Child Employment) Act 2006 ensured that where an employer covered by WorkChoices made an agreement that involved a child worker, that agreement had to result in no net detriment to that child compared to the State award that was relevant to the type of employment. This ensured that the robust State award system remained the safety net for workers under the age of 18. As we all know, WorkChoices has now been swept away—and it is not lamented—to be replaced by the Fair Work Act 2009, which restores a meaningful safety net. It legislates for 10 national employment standards that cannot be contracted out of. It ensures that young workers will always have access to four weeks paid annual leave, paid sick leave and reasonable working hours.

These national employment standards will, from 1 January 2010, be buttressed by the commencement of the new modern award system, which will set out fair and reasonable rates of pay for the work done by young workers. It will guarantee casual loadings and penalty rates for work outside ordinary hours. This is the kind of industrial relations system that ensures unscrupulous employers cannot rip off young workers. Young workers will not have to argue with their employer to get basic conditions; they will be mandated by law.

The passage of the Industrial Relations (Commonwealth Powers) Bill will see New South Wales participating in the new national workplace relations system created by the Fair Work Act. The Government is confident that the conditions of employment of young workers in New South Wales will be comprehensively protected by the Fair Work system. The establishment of a single national industrial relations system for the private sector will ensure that there is no question as to what set of laws applies to young workers.

The Fair Work Act also recognises that States have a particular role to play in considering whether any special rules are required to ensure the welfare of young people who work. Child labour laws are a non-excluded matter under the Fair Work Act. This means that the State can continue to make laws about issues such as the times at which and the period during which a child may be employed. These will remain matters that can be regulated by the State of New South Wales. This is appropriate because that regulation would need to take account of other State-based regulation such as our education laws and school attendance requirements.

In this context I remind the House of recent amendments to the Education Act 1990, which increased the school leaving age and imposed additional requirements on children under the age of 18 regarding work and study. This is in line with the national effort to support earning or learning. These endeavours will ensure that all persons under the age of 18 are in an educational or working environment, or some combination of learning and earning. These amendments are scheduled to take effect from January 2010.

The potential to harmonise State laws that relate to the employment of children and young people was recently discussed at the Workplace Relations Ministers Council. At that meeting Ministers agreed to refer the issue of child employment regulation to a committee of senior officials. This committee will continue the work of streamlining child employment regulation so that it continues to support the primacy of learning and education in the lives of young people. The decision by the Ministers to consider further regulation is in addition to the Commonwealth House standing committee inquiring into combining school and work and supporting successful youth transitions that is currently underway.

The outcomes of the standing committee are likely to be relevant to the States as they develop child employment regulation that is aligned with changes to the school leaving age and greater diversity in pathways of learning and earning for this age group. As part of the Federal review of child employment, New South Wales will actively engage with the States, Territories and the Commonwealth to ensure that the interests of children and young people in New South Wales are well served. New South Wales will continue to work with the Federal Government to ensure that young workers under the Fair Work system continue to be protected. This bill makes an important contribution to that objective and I commend it to the House.

Mr BARRY COLLIER (Miranda—Parliamentary Secretary) [5.24 p.m.], in reply: I thank the members representing the electorates of Lane Cove, Maitland, Wollongong, Vaucluse, East Hills, Charlestown, Swansea, Bathurst, Camden, Riverstone and Macquarie Fields for their contributions to the debate. The Industrial Relations (Commonwealth Powers) Bill 2009 realises the promise of a truly national industrial relations system. The bill will refer to the Commonwealth the power to legislate with respect to industrial relations matters relating to the unincorporated private sector. This will result in all private sector employers and their employees being covered by the one system based on the Fair Work Act. This is a major referral of powers but it is occurring with such protections and in such circumstances that it will not compromise the States' rights. Indeed, the bill facilitates the involvement of New South Wales in the national system. States' rights are protected by both the multilateral intergovernmental to which governments participating in the national industrial relations system will become parties and by the conditions of State referrals.

The intergovernmental agreement states that any future change to the Fair Work Act that compromises one of the fundamental principles upon which that Act is based must be agreed to by at least two-thirds of the governments participating in the national system. This obligation, which ultimately rests upon the Commonwealth, is bolstered by the ability of State governments to withdraw their referrals. This bill gives the State Government the ability to withdraw the referral of powers in a manner that best suits the Government's interests. The Government may withdraw all of the referred powers completely, whereby all of the referred employees and employers would fall back into the New South Wales system. Alternatively, the Government may only withdraw the power to amend the legislation applying to the referred employees and employers.

This could be used to prevent any WorkChoices style amendments flowing on to referred employees and employers whilst still preserving the continued application of the Fair Work Act. These provisions are mirrored in the referrals bills of other referring States and collectively have the effect of distributing power and influence across the governments participating in the national system. Combined with the intergovernmental agreement, this will encourage the development of industrial relations policy in a manner consistent with the views of mainstream Australia.

We have a proud industrial relations history in New South Wales. The Industrial Relations Commission is the oldest continuing specialist employment court and tribunal in the world. New South Wales has led the way in the development of the living wage and the concept of a fair go all round. The development of the national

system builds upon this tradition. The system established by the Fair Work Act is just that—a fair and decent system that recognises the fundamental rights of employees and employers. These fundamental principles are, firstly, a strong, simple and enforceable safety net of minimum employment standards; secondly, genuine rights to ensure fairness, choice and representation at work; thirdly, collective bargaining at the enterprise level with no provision for individual statutory agreements; fourthly, fair and effective remedies available from an independent industrial umpire; fifthly, protection from unfair dismissal; sixthly, an ongoing commitment to an independent tribunal system; and, finally, an independent authority able to assist employers and employees within the national system.

The creation of the national industrial relations system will eliminate the confusion and uncertainty faced by many employers, particularly those in the charitable or local government sectors. This bill will ensure that all employers are aware of what laws cover them. The Fair Work Act will form the basis of the new system. State laws, however, will remain in place covering all employers with respect to issues such as leave for victims of crime, long service leave and workplace surveillance. New South Wales has a record in industrial relations that is second to none. This bill proposes that this continue with New South Wales as a participant in the national industrial relations system. 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.

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

Agreement in Principle

Debate resumed from 25 November 2009.

Mr BARRY O'FARRELL (Ku-ring-gai—Leader of the Opposition) [5.30 p.m.]: The Election Funding and Disclosures Amendment (Property Developers Prohibition) Bill 2009 acknowledges the rotten decisions-for-donations culture that exists in New South Wales. Regrettably, the bill acknowledges that culture at least a decade too late. It is a culture that the public have wanted to see ended for year after year after year, a culture that the Government refused to end repeatedly when questioned and when pressed in this House.

However, the Election Funding and Disclosures Amendment (Property Developers Prohibition) Bill 2009 does not represent the change the public wants or deserves. The bill does not provide them with the certainty that that decisions-for-donations culture will be ended once and for all across all areas of government in New South Wales. That can only occur—as the Liberal and Nationals parties have argued since this Parliament came together—by way of whole-of-government and radical campaign finance reform that does not simply single out one class of donor but seeks to make changes that ensure the honesty, integrity, openness and transparency that the public rightly deserve.

The very first motion I moved in this Parliament was a motion to establish a committee to put in place the sorts of reforms the State needed. One of the very first votes participated in by those opposite—including the man who is now Premier—was to vote against that change. And it has been repeated time and again over the life of this Parliament: a burying of their head in the sand but a keeping of their hand out behind their backs, as they took donation after donation. A total of $24 million was raised over the term of the last Parliament—$115,000 each week for those four years—to put together the largest campaign war chest ever seen in the history of this country. That is the largest sum ever expended on a State or Federal political campaign up until the last Federal election—all because this Government is addicted to donations, and that addiction is confirmed in this legislation. The legislation does not do what addicts know needs to be done: to go cold turkey, to across the board wipe out the very evil that has corrupted Government processes.

The Coalition's proposals were far more comprehensive. We have pressed them time and again. We have argued that there should be a ban on all donations except donations by individuals—what those in the business call a ban on all but small donations—at a limit that I have argued should be set between $1,000 and $1,500, but a limit that I am prepared to allow to be set by an independent watchdog such as the Auditor-General. That would once and for all ensure that those who have a vested interest in the electoral system—individuals, Australian citizens, those who can vote—also have the right, if they so choose, to decide whether to support a candidate or a party with their dollars.

But those donations should be limited to between $1,000 and $1,500, as under the system that currently exists in Canada and other Commonwealth countries, to ensure that the donation could not corrupt the person who receives it. That is the principle: that individuals ought to be allowed to make donations but other groups—whether they are not-for-profit groups, union groups or business groups—should not be allowed to make donations across the board. Those groups, as entities, do not get a vote under our electoral system, and we would argue that those who get a vote—that is, individuals—should be the people who make those decisions.

A second argument the Coalition put forward was that there should be caps on how much candidates and parties can spend during election campaigns. That is what occurs in New Zealand and other Commonwealth countries. It addresses the issue that if you remove the capacity for political parties to spend the sorts of amounts we have seen Labor spend in increasing amounts over the past four elections, you remove the incentive to increase the spending. It is the surest way to remove the evil. If we want to reduce the amount of money washing around State politics in New South Wales, we should put limits on how much can be spent by candidates and parties during an election campaign. That is what happens overseas. It is a workable system, and it is one that we have argued should apply in this State.

We have argued that those restrictions should also apply to third parties, whether they are union groups, business groups, not-for-profit organisations or other groups. There is no point in putting in place a system that allows people to, as some might say, drive trucks through it. If we do not impose limits on campaign expenditure on groups other than political parties and candidates, all that will happen is that money will be funnelled through third parties and the like to ensure that the intent of the legislation is thwarted.

Since the time this Parliament came together the Coalition has consistently argued a proposal—which has been voted down by those opposite—to seek to put limits on the amount of money governments can spend in taxpayer-funded, clearly politically motivated advertising in the lead-up to an election campaign. This would end what we have seen at the last three elections, whereby the Labor Party has held back no amount of public money through advertising, publicly paid for, to try to make itself look good. That, too, adds to the perception of corruption in this State. That, too, is a corrupt practice: those dollars would have been better invested in our schools, our hospitals, our police system, and in the myriad other services in this State that people rely upon.

We have argued long and hard for campaign finance reform, and we will continue to do so. Over the past 14 months while Nathan Rees has been Premier and during the period when the former member for Lakemba was the Premier of this State we have heard a consistent rollout of excuses. There has been excuse after excuse, and they have all centred on the same thing: there was a need for national action. A week before the Premier gave his speech at the Labor Party conference announcing this ban on political donations, I put to him that he should emulate his colleague in Queensland, Anna Bligh, who was threatening similar legislation and who intended to go further by banning success fees. Yet, the Premier said in this House, "No, we can't do any of that until there is action at a national or Federal level." Clearly the Premier had not been briefed at that stage as to what he was going to announce on the Saturday. It demonstrates the lack of commitment on the part of the Premier and the Labor Party to the real reforms here.

None of us will forget the debate last year in the hotel when I put to the Premier that we could make progress out of that public debate by agreeing, there and then, to implementing the 47 recommendations of the Legislative Council inquiry. We even shook hands on it. The Premier put his hand out, I took it, and we shook hands. I argued the point that finally something progressive, constructive and practical had come out of the exchanges we had in that hotel on that night. And yet, a month later, having commissioned a $33,000 report from Professor Twomey, the Premier again used the excuse that there could be no reform without national action.

The Premier's speech to the Labor Party conference on 14 October was genuinely his road to Damascus experience. But, more correctly, it was the Premier's attempt to find a path through to the next election—a path through the problems in the Labor Party and a path that would hopefully provide him with some hope of

winning the next election. But, of course, as so often happens with those opposite, the wrong solution is chosen. It is an attempt to be seen to be doing things but not actually undertaking the radical reform that is necessary if we are to restore public confidence in New South Wales' public administration. It is not the whole-of-government reform that would guarantee to the public that, whatever decision was made in whatever portfolio, there could be no taint of the decisions-for-donations culture that has permeated this Government. There was no attempt to put in place a system that could not be thwarted, whether by those opposite or by others who seek to corruptly and otherwise misuse our electoral systems.

The proposal the Premier has come up with is what the Legislative Council inquiry described as the "second-best option". The Legislative Council committee was a bipartisan committee. Two members of the Labor Party signed up to the recommendations of that committee. They were the new President of the upper House, the Hon. Amanda Fazio, and that doyen of Country Labor, Mick Veitch—two people who understood that what the Premier has presented to the Parliament in this legislation was a second-best option because it did not provide the whole-of-system corruption resistance the public deserved and were crying out for, and that too often in the past the Government had refused to give. This has been a deliberate attempt by the Premier to be seen to be taking action when he knows this single piece of legislation will not achieve that.

When the Premier's office was asked, between the announcement of this legislation and its presentation, for a definition of the term "developer"—a critical issue if a single class of donor is to be banned—it said it would fall back on the definition of the Independent Commission Against Corruption. That caused me to have a look at the odd report of the Independent Commission Against Corruption and to write to the new Commissioner of the Independent Commission Against Corruption, Mr David Ipp. I asked the commissioner to provide me with the advice he had given to the Government when putting together this legislation. Commissioner Ipp made the point that the "Independent Commission Against Corruption had previously put a submission to the Joint Standing Committee on Electoral Matters postulating the banning of political donations at local government level from developers and other persons with an interest in the decision before a local council".

He went on to say that "the commission had made no recommendation in this regard and did not at that time postulate a wider ban on political donations". He further said that the commission had "set out a brief definition of 'developer' for the limited purposes of the discussion in its submission. That definition was not put forward as definitive and was provided in a context much narrower than that covered by this bill". First, the commissioner said there was no Independent Commission Against Corruption definition. Second, in answer to my direct question as to what advice the commission had provided to the Premier about this legislation and the definition of "developer" that occurs within it, Commissioner Ipp said the commission "had not provided advice on this matter"—the first con.

A year ago taxpayers in this State paid $33,000 to Professor Anne Twomey, who is recognised as the leading expert on the New South Wales Constitution. Did Premier Rees, his advisers, or whoever put this piece of legislation together consult Professor Ann Twomey about its provisions? We know the answer to that question is equally "no". That "no" was confirmed at a briefing yesterday that involved staff of the Department of Premier and Cabinet and the office of Premier Rees, who confirmed that Professor Twomey's advice was not sought. That raises concerns for those of us on this side of the House that this is not an attempt at a whole-of-system approach to ridding the State of the decisions-for-donations culture that has so damaged Government decision-making in New South Wales, nor is it intended to work.

This is clearly demonstrated in a letter, received by all members of Parliament, from the chief executive officer of Urban Taskforce Australia, Aaron Gadiel. In the five or six pages of that letter Mr Gadiel runs through a number of concerns. I will not trouble the House with the detail of those concerns because I am sure other members will. The first concern listed, "Fly-by-night property developers will be exempt from the ban." He made the point that the Independent Commission Against Corruption inquiry into corruption at Rockdale Council centred on a tailor—someone who puts together clothes for individuals, not a property developer—who wanted to turn a site, slated for four storeys, into eight storeys.

In that situation a one-off fly-by-night developer is exempted from this ban no matter what profit he stands to make on the development, irrespective of whether it is lodged with the council or lodged under part 3A and approved by the Minister for Planning, and will potentially deliver to him millions of dollars. Under this legislation that fly-by-night developer, if he so wished, could donate those millions of dollars to the Labor Party. The second concern listed, "Land owners seeking to make money from the re-development of surplus or under-utilised lands will be exempt from the ban." The letter stated:

> The definition limiting a "property developer" to a corporation that makes "planning applications" removes from the definition a whole range of companies who profit from property development, most notably land owners."

The third concern listed, "Developers who pursue development opportunities through a series of shelf companies will be exempt from the ban." This is terrific legislation, which will encourage the tax avoidance industry! Let us again assist the accountants and lawyers to thwart the laws of the land. Let us not attempt to have an approach that guarantees openness, accountability and transparency, which lawyers are happy to support. But for lawyers who are asked to find ways through this legislation—they are unable to refuse cases that come their way—here is one way to do it: with shelf companies, as identified by the Urban Taskforce.

The fourth concern listed, "The definition of 'close associate' does not include key parties who may profit from the activities of a company." It says that creditors are exempt. We all know that currently in this State the Centro shopping centre creditors, and not Centro management, are running the shopping complexes because of the financial problems of Centro. Decisions to develop Centro sites could be pursued by those creditors on behalf of other creditors, profits could be made, and donations could be passed to the Australian Labor Party.

The fifth concern listed, "Developers who are merely speculating on changes in development controls are exempt from the ban." We all understand what that means. The sixth concern listed, "There is an unreasonable violation of the civil rights of directors, shareholders, offices and beneficiaries and an unjust restriction on the rights of the industry organisations." Mr Gadiel makes the point that many people will be "close associates". He also makes the point, as others have, that not everyone who is a close associate will understand that and may offend this legislation. Further, close associates will have no rights to even support an issue-based campaign at election time and no close associate will be entitled to make a political donation, no matter how much. Close associates will have no right to even attend political events. And we have read in today's paper about the entrenchment of sexual discrimination contained in the bill.

I have listed the loopholes identified by the Urban Taskforce Australia. However, the one I like most of all—not mentioned by the Urban Taskforce—is that nothing in this legislation would stop the Urban Taskforce from making donations to a political party or to a candidate, whether independent or politically aligned. Nothing in this legislation stops major property organisations in this State, peak bodies, from continuing to make funds available to political parties. What sort of joke is being presented to this Parliament? Nothing in the legislation seeks to limit access by the Australian Labor Party to funds from the union movement.

We know that a few years ago Unions New South Wales, seeking a $15 million profit in relation to a development in the electorate of the member for Pittwater, sought to facilitate the sale and development of that land. If Unions New South Wales could have reaped that $15 million, then under this legislation it could have given the money to the Australian Labor Party. That loophole is not caught in this legislation. Of course, that goes hand in hand with the millions of dollars that the union movement provides to those opposite, which is an issue I will return to shortly.

Political party membership can range from amounts of tens of dollars through to a couple of hundred dollars, for those who offer to pay higher rates for party membership. Under this legislation political parties could raise their membership fee to $999. As long as it is a small donation—that is, as long as it does not exceed the $1,000 limit, which defines a small donation—that is acceptable. The person that gave $999 for what the previous year might have been a $60 membership or $100 membership might be the director of a property company, a developer, a close associate or any of the people that this legislation apparently seeks to prevent from giving donations. However, under this legislation as long as their membership fee is less than $1,000 they can continue to do that.

I am also unclear in the case of unions that provide donations called affiliation fees—that is, affiliation fees based on the number of members they have, not on the number of members who put their hand up to join the Australian Labor Party through those organisations. The rort of $999 per each of those members could also apply. You would be driving more than a truck through this legislation: you would be driving the *Southern Aurora*. This legislation raises a range of issues. I return to Professor Anne Twomey. I have argued long and hard, not that the Premier ever gets the story, that when one seeks to ban something one opens oneself up to the constitutional problem of restricting rights. That is why I have been arguing for 2½ years that there should be limits—limits on expenditure and limits on donations.

That does not stop campaign funding; it just puts a reasonable test on it. The Greens seem to think that a reasonable test for individual donations is $10,000, which does have the capacity to corrupt. We believe the limit should be in the order of $1,000 or $1,500, which is the practice in other Commonwealth countries that apply those sensible sorts of laws. As others have argued, including Professor Anne Twomey last weekend, the

imposition of a ban on a single class of citizen opens it up to constitutional challenge. I suspect when this legislation goes through the Parliament, as it will, it will not be the last we hear of it. Once again, this incompetent Government, with its half-baked measures, cannot assure that it does the job it is expected to do.

The advice from Anne Twomey is publicly available and I have made the point previously that advice received by the Liberal Party and The Nationals earlier this year from Professor Patrick Keyzer, Deputy Dean of the Faculty of Law at Bond University, and Arthur Moses, an outstanding senior counsel from Frederick Jordan Chambers, made it clear that a ban on political donations effectively would burden political communication and be open to challenge. They went on to say:

> The real advantage of the amounts limits proposal advocated by the Leader of the Opposition is that it would provide political parties with an equal opportunity to advance their message. It is superior to a pure public funding model which may only serve to reinforce existing inequality.

In their view, it would escape any concern of higher jurisdictions about the constitutionality or otherwise of delivering effective campaign finance reform. God help the Election Funding Authority, which will have responsibility for this legislation. It is proposed that enormous obligations will apply to the Election Funding Authority. For example, it will have the capacity to declare people not to be property developers. It is a wonderful system where people have to go to an organisation and ask it to declare that they are not property developers, or some other class of donor.

The Election Funding Authority will have to maintain a public register that makes it clear to members of Parliament and those who work with political candidates whether or not a person attending a function is a property developer. God help those volunteers who help run our State politics because they too end up with these onerous provisions. The Election Funding Authority will have to check the returns that are lodged every six months to see whether or not the legislation is being offended. The Election Funding Authority, as it does now, will have to investigate breaches and, if they are serious enough, refer them to the Director of Public Prosecutions.

When asked yesterday whether the Election Funding Authority, with those extra obligations and inordinate complexities that exist within the bill, will receive extra resources—a dollar or extra staff—the answer from the bureaucrats was a clear no. Once again, this leads us to believe that this is not about the Government putting in place effective legislation. This is about the Government trying to pretend to the public it is doing what is required of it to end what we all agree—even the Government—is the rotten decisions-for-donations culture, which has grown up under Labor and which the Government has no real desire to get rid of.

I do not believe that this legislation will work. I believe that we will hear more about it. I believe that innocent people will inadvertently offend it, and they will be dealt with. I am sure there will be challenges to the legislation, as the Urban Taskforce and others have said. This legislation will not deliver what the public of New South Wales wants. It is a complete pakapoo—that wonderful Australian word that is defined in the dictionary as "difficult to decipher". I have always believed that if laws are hard to interpret and we cannot explain to the public what is expected of them, those laws are bound to fail. That failure will be on the head of the Government, which seeks to play politics with this important issue.

At the heart of community concern, which has grown into an enormous disquiet across New South Wales, is the confidence that the public has in this place and those of us who serve in it. By allowing this decisions-for-donations culture to grow, the Government has threatened our democracy and system of government that is meant to serve the people. If people lose faith in the way we carry out our positions, if people lose faith in governments that are meant to serve them, reform and better outcomes cannot be achieved and we limit the opportunities of everyone in the State or the nation. That is why our preference is not to play these games.

Our preference is to do what the parliamentary committee suggested—that is, introduce whole-of-government reform. For the past 2½ years we have argued for parliamentary campaign finance reform that will deliver to the public the improvements, changes and confidence that they so desperately seek. Our donation reform involves bipartisanship. It does not require another parliamentary committee, which will simply delay its implementation. The Hon. Michael Veitch and the Hon. Amanda Fazio served on last year's inquiry, which set out where we want to get to—that is, first, that we ban donations from all but Australian individuals; second, that there be donations from no foreign companies and no other entities, whether they are unions,

business-based or third parties; third, that we ensure there are limits on campaign spending; and, fourth, that we ensure that those limits apply to third parties, particularly unions. We know the Government will never agree to that. It will never impose restrictions on unions.

This year alone the returns that have been lodged with the Election Funding Authority show that $4.5 million has gone to the Labor Party from the union movement. In the last Federal election campaign unions spent $28 million across the country to support their political whim. None of that is caught under this legislation. Even though a union, as happens from time to time—or Unions New South Wales, which we know has done it on at least one occasion—seeks to engage in development, none of that is caught. But the Government says that a ban on property developers is necessary. We know that unions exercise influence within the Labor Party. We know that they exercise influence at the State conference of the Labor Party. We know that unions donate to individual Labor members of Parliament. We know that unions dictate who will sit in Parliament for the New South Wales Australian Labor Party.

[*Interruption*]

I am sorry that the member for Blacktown speaks up. He has survived the various reigns of terror that have occurred in the Labor Party—under Carr, Iemma or Rees—because of the strong support from the Storemen and Packers Union. None of that is affected by this legislation because the Government is not interested in removing conflict of interest or undue influence on the political process. It is not interested in ensuring a political process that is honest, open and accountable—one that would be delivered if it put in place what the Opposition has been arguing we will do in government. We will not oppose this legislation, even though it will not work. However, we put the public on notice that when we are elected we will introduce wholesale reform. When we are elected we will seek to restore public confidence in the Government in New South Wales. We will ensure that across the board in whatever area of government people do business, there can be no allegation that donations produce decisions.

We will not only constrain the politics able to be used by Ministers, which has increased under this Government, but will also ban all but small donations. We will cap expenditure, we will outlaw lobbyist success fees and we will place restrictions upon the use of taxpayer funds in the 12 months leading up to an election on politically motivated advertising campaigns—the type of campaigns we saw at the last election and the election before and, I regret, because of Labor's opposition to the bill we put forward, we will see at the next election. Those of us on this side of the House want to build our democracy. Those of us on this side of politics want to rebuild public confidence in government because we understand that is necessary if we are to secure the future that this State and the community deserve.

Mr FRANK TERENZINI (Maitland) [5.59 p.m.]: I am pleased to speak in support of the Election Funding and Disclosures Amendment (Property Developers Prohibition) Bill 2009, which will again cement this State's position of leadership in the area of donations reform. On 14 November 2009 the Premier announced that the Government would undertake further reform of election funding laws to reduce the influence of political donations in New South Wales. The ban on developer donations is merely the first step. In recent times donations from property developers have given rise to the perception of undue influence and have undermined public confidence. A ban on donations from one sector of the business community inevitably raises the issue of corporate donations more generally. That is why the Premier has announced that the next State election will be conducted under a public funding model in conjunction with bans and caps on private donations.

A "property developer" is defined as a corporation engaged in a business that regularly involves the making of relevant planning applications by or on behalf of the corporation, in connection with the residential or commercial development of land, with the ultimate purpose of the sale or lease of the land for profit. This is a detailed definition to provide legal and practical certainty, and to minimise loopholes. Under the ban "property developers" will include professional property developers and close associates of professional property developers. It is important to note that the definition of property developer is not, as some have suggested, limited to companies that regularly make planning applications. The ban will also apply to companies that are new to the business of property development, even if they have not yet lodged a planning application, and shelf companies established by property developers to lodge planning applications in relation to a particular development.

It is noted that "relevant planning application" is not limited to the submission of a development application. It also includes a formal request to the Minister, a councillor or the director general to initiate the

making of an environmental planning instrument or development control plan, or a formal request to the Minister or the director general for development on a particular site to be made a State-significant development or declared a project to which part 3A applies.

To minimise opportunities for avoidance, the bill also makes it unlawful for a property developer to solicit another person to make a political donation. Close associates of property developers are also caught by the ban. They include a director or officer of the corporation, or their spouse; a related body corporate of the corporation; a person whose voting power in the corporation or a related body corporate of the corporation is greater than 20 per cent, or their spouse; the corporation or a related body corporate if it is a stapled entity in relation to a stapled security—the other stapled entity in relation to that stapled security; the corporation if it is a trustee, manager or responsible entity in relation to a trust—a person who holds more than 20 per cent of the units in the trust, in the case of a unit trust, or is a beneficiary of the trust, in the case of a discretionary trust.

Much has been made of the constitutional issues raised by the bill. In 2008 the Government sought comprehensive legal advice from Dr Anne Twomey on constitutional and other issues arising from bans, caps and other restrictions on donations and expenditure. The Twomey report was released for public comment in November 2008, and the Government has relied on the conclusions drawn in the Twomey report in drafting the bill. The definitions in the bill have been carefully crafted in line with constitutional principles, while trying to ensure the ban is meaningful and reasonably adapted to address the public's concern about developer donations.

It is important to note that New South Wales and other States have been successful already in imposing selective bans on certain types of donations. For example, in Victoria donations above $50,000 from gaming and casino licensees are banned. In New South Wales donations from non-individuals who do not have an Australian business number are banned. The Government is confident that the bill would withstand constitutional challenge. I note the histrionics of the Leader of the Opposition in his speech. It was all about attracting attention to himself in being high and mighty and taking the high moral ground, looking at this and looking at that.

Mr Robert Coombs: What about the tobacco?

Mr FRANK TERENZINI: He did not mention the tobacco they take money from. This is yet another opportunity that the Leader of the Opposition has taken to big-note himself, while at the same time putting his hand out to take donations. I cannot think of a greater example of hypocrisy than what we have just heard from the Leader of the Opposition. He is high and mighty and has taken the high moral ground, but for what? It is just five minutes of political fame. Five-minute O'Farrell is at it again.

This is all about the first step in a process. It is all about drawing the line and saying that there is a perception out there about donations, let us do something about it. We are calling on the Opposition to help us say to the people of New South Wales that there is a perception out there about developers giving donations to political parties—whether that is to the Government or the Opposition—and we are going to do something about it. While we are waiting for the constitutional issues to resolve themselves across Australia, let us play our role; let us set the standard. Let us cut out that perception and say that we will ban property developer donations and that we will take care in defining the term "property developer" to make sure that it is right and includes all the people we have included in the ban. We were hoping the Opposition would join us.

But the Leader of the Opposition stands in this place and makes political hay out of the issue. Members of the Opposition have become professionals at doing that, having been in opposition for nearly 15 years and having taken every opportunity to do so. We will have contributions from the member for Port Stephens and the member for Pittwater who will stand up, go through the motions and say, "What about this? What about that?" They will look at all the intricacies of the bill, interpret sections and provisions, and say it is not quite right. But at the end of the day what are we trying to do? We are trying to tell the people of New South Wales that we do not want them to have a lingering perception that there is something untoward in developer donations.

The Opposition will not say that the bill is okay and we will ban developer donations because it depends on those donations. If we look at the figures for donations in the past 12 months or two years it is obvious that the Opposition would not want to lose that. I have just found a photograph of the then Leader of the Opposition, Peter Debnam, and his wife on a boat called *The Other Woman* with the then shadow Minister for Planning, Chris Hartcher, at Blackwattle Bay for a fundraiser with property developers who paid $750 a head for a harbour cruise.

Mr Robert Coombs: How much?

Mr FRANK TERENZINI: They paid $750 a head for a harbour cruise. That photograph is dated 2006—a beautiful photograph of the then Minister for Planning and the then Leader of the Opposition on a harbour cruise. Is it any wonder that the Opposition criticises the bill? This is all about the Leader of the Opposition talking the talk and saying that we should do this and we should do that. But when he is presented with an opportunity to play a bipartisan role for once and draw the line, what does he do? He stands in this place and performs over a period of minutes with a high and mighty speech, taking the high moral ground and showing his hypocrisy. It is a disgrace and a disappointment. The Leader of the Opposition had another opportunity today to lead. He had another opportunity today to tell the people of New South Wales that the Parliament is interested in getting rid of this perception about developer donations. Instead he performed for the cameras, he performed for tomorrow's newspapers and he performed for his colleagues.

Mr David Harris: Some of his colleagues.

Mr FRANK TERENZINI: He performed for some of his colleagues. But he performed because he does not really want the amendment to become law. He does not want to miss out on the very donations that for months and months he has been telling us to ban. When he gets the opportunity he fails to show any leadership. It is a matter of not only talking the talk but of walking the walk. The definition of a "property developer" is comprehensive. The Leader of the Opposition is wrong in choosing to make hay of these technicalities, which he has not used very well, and in misinterpreting the Act. He should recognise what the bill is all about—that is, of course, drawing the line. I hope we get better contributions from members opposite who are about to make speeches than we did from the Leader of the Opposition. I hope they are more constructive and that we can proceed with the legislation. I commend the bill to the House.

Mr CRAIG BAUMANN (Port Stephens) [6.10 p.m.]: I speak to the Election Funding and Disclosures Amendment (Property Developers Prohibition) Bill 2009. If this were not such a serious and comprehensive issue, the Government's attempts to imitate the Coalition's undying commitment to openness, transparency and accountability would be utterly laughable. The Government's attempt to introduce restrictions on developer donations is obviously welcome, given the way the Labor Party in New South Wales has allowed itself to become embroiled in donation and bribery scandal after donation and bribery scandal. Even scandals in the local government arena, like the Wollongong City Council developer scandal, had the fingerprints of members opposite all over it. That is why the Coalition does not oppose the amending bill.

The Coalition strongly supports any measure that better regulates donations to political parties. In fact, we do not believe that the amending bill goes far enough to end Labor's decisions-for-donations culture. The member for Maitland referred to a lavish $750-a-head function. I suggest that he log on to the Democracy for Sale website and see what donations the Labor Party is receiving from developers. It is obscene. That is why the Coalition challenged the Premier to support the bipartisan recommendations of the Legislative Council inquiry and to ban all individual donations by citizens, to impose annual limits on the amount individuals can donate, to cap election campaign spending by candidates, parties and other groups, and to restrict taxpayer-funded Government advertising in the lead-up to an election. However, the Premier refuses to sign up to that agenda because it would see an end to union donations. Instead, however, he has adopted, as Urban Taskforce Australia described, a "narrow, technical view" of a developer and has introduced legislation that is an insult and smack in the face to the 99 per cent of honest developers, architects, engineers and anyone else who is considered a developer under this bizarre legislation.

I will explain why the definition of a developer in the bill is utterly ludicrous, misguided and ill conceived. As the member for Maitland knows, when I am not fulfilling my role as the member for Port Stephens I am the director of a Maitland-based building company that has its office just around the corner from his office. It is a business that my father established in 1971 and I added another company to it a few years ago. Both companies are residential builders and we build about 150 dwellings per annum. I have submitted thousands of development applications to council for dwellings, duplexes and small unit developments. That makes me a developer according to the legislation, even though not one of those development applications has been subject to approval by any Government Minister—99 per cent were approved by council officers under delegated authority.

The bill describes a "developer" as "a corporation engaged in a business that regularly involves the making of relevant planning applications". Therefore, under the legislation I am a developer, along with many surveyors, engineers, architects and every builder in New South Wales, even though they are seldom involved in

rezonings or part 3A applications that interest Ministers in this place. As a developer, neither I nor my wife can contribute to any campaign or attend any fundraising event, even my own. As the Leader of the Opposition and I said earlier, Urban Taskforce Australia has made a submission. The organisation shares my very real concerns about elements of the legislation, which I will elaborate on. The task force summed up the legislation by stating:

> … a truck could be driven through the loopholes in the NSW Government's "ban" on property developer political donations contained in the above bill.

As I said, according to the bill only companies that regularly make planning applications will be subject to the ban. Clearly, any company that has never previously made a planning application and that has no plans to make further applications cannot be described as a company that regularly makes planning applications. Therefore, a company that is new to property development will not be a property developer under the Government's definition. Additionally, a company that has made only a small number of planning applications in an ad hoc, irregular way, without establishing any planned or customary behaviour, may also be exempt from this ban. What about business people who do some property development on the side? As the task force points out:

> It is very surprising that estate agents, lawyers, accountants, publicans and builders who do a little bit of property development on the side will still be free to donate to political parties.

Any individual who is a close associate of a property development company will be covered by the ban on political donations. This includes a shareholder of more than 20 per cent of the company, an officer, a director or their spouse. The community understands a property developer to be someone who earns income from the development of land. This tends to mean that any company with significant landholdings can be regarded as a property developer. However, the Government has not sought to define a property developer based on its normal English language definition. Instead, it has taken a narrow technical view of a property developer. The bill essentially provides that a property developer is someone who makes many planning applications.

At some time or another banks, television networks, breweries, manufacturers, retailers and fast food chains all need to sell and acquire land. These companies rarely ignore the development opportunity of their land when buying and selling. Some choose to develop themselves, others enter into joint-venture arrangements with full-time property developers, and others give a full-time developer an option on their land that will result in the land's purchase if the developer successfully secures a development approval. All of these companies are, in fact, property developers, as long as they are earning income from the development of land. The bill's very narrow and overly technical definition of property developer will ensure that the ban on developer donations is weak and ineffective, and will fail to rebuild confidence in Government decision-making.

To enlarge on the Leader of the Opposition's observations, some other specific concerns relate to fly-by-night property developers, who will be exempt from the ban. As I said, only companies that regularly make planning applications will be subject to the ban. Undoubtedly, large property development companies would be covered by the ban. However, the picture is not so clear for companies that have made only, and plan to make only, a single planning application. The Supreme Court of Victoria has said that "regularly" means at regular times or intervals or according to plan and custom. Clearly, any company that has never previously made a planning application and that has no plans to make further applications cannot be described as a company that "regularly" makes planning applications. That is, a company that is new to property development will not be a property developer under the Government's definition.

Additionally, a company that has made only a small number of planning applications in an ad hoc, irregular way without establishing any planned or customary behaviour may also be exempt from this ban. Individuals such as real estate agents, small-scale builders, hoteliers, accountants and lawyers who have opportunistically bought a site and are aggressively pursuing a development approval carry out most property development projects. In anyone's language these people are property developers, yet they may not be covered by the Government's ban on developer donations. Normally the shelf company they form to buy the land will never have previously made a planning application and may never do so again. The Government's ban is likely to capture large-scale professional businesses, but will exclude the fly-by-night opportunistic individuals.

The biggest corruption risks arise when unprofessional individuals buy a single site and try to secure a favourable development approval or rezoning. These individuals frequently end up with sites that have restrictions they did not anticipate. Reports of the Independent Commission Against Corruption inquiry are littered with the activities of such small-scale, unprofessional developers. The problems caused by opportunistic

individuals getting over their head were well known. The Independent Commission Against Corruption inquiry into corruption at Rockdale City Council centred on a tailor who wanted to turn a site slated for four storeys into eight storeys.

Landowners seeking to make money from the redevelopment of surplus or underutilised lands will be exempt from the ban. As I mentioned, only companies that regularly make planning applications will be subject to the ban. The planning applications must relate to the "residential or commercial development of land, with the ultimate purpose of the sale or lease of the land for profit". A vast array of companies and businesspeople get into property development because they find themselves in possession of surplus or underutilised land that is ideal for redevelopment.

Examples include Coal and Allied, a mining company that owns a large site near Catherine Hill Bay; Sydney Airport Corporation; the Foster's Group, which owns a large site at Broadway; and any number of farming enterprises that became greenfield land developers once it became clear that their land was well positioned to support urban expansion. The decision of these businesses to become involved in property development will not necessarily be repeated, is not part of any regular pattern, and is not customary for that business. Therefore they will be exempt from the Government's ban even though their redevelopment project and any corruption risks are indistinguishable from that of a full-time development company.

Sometimes landholders will not even be directly involved in the mechanics of property development—that is, hiring consultants, arranging for a planning application to be made, and so on. Instead, they will sign an option agreement, which entitles a professional property developer to purchase the property within a set period at a pre-arranged price. Usually the price is high enough to share some of the anticipated development profits with the landholder. Accordingly, the professional developer will normally exercise the option only when a planning application has been approved. During this period, there is a risk that the landholder may undertake his or her own political lobbying activities independent of the developer.

The definition limiting a property developer to a corporation that makes planning applications removes from the definition a whole range of companies that profit from property development, most notably landowners. Developers who pursue development opportunities through a series of shelf companies will be exempt from the ban. It is a common industry practice to carry out development projects through a proprietary limited company formed—or purchased as a shelf company—specifically for a single project. In many instances, this practice is sensible because of changes in equity partners, each company has its own assets liability and legal status, and the company will have its own governance structure allowing commercial decisions concerning a particular project to be dealt with by a board specific to that project. A parent company may own all or part of a large number of companies. The parent company may never make or lodge a planning application. Such applications will be made typically by or on behalf of the individual companies concerned. When this corporate structure is used, the Government's ban on property developer donations will not normally apply—again, because there is no regularity.

I note that the Government has included a provision in the bill for a close associate to be included in the property developer ban. Close associates are dependent on at least one of the companies involved regularly lodging planning applications. In this example, none of the companies regularly makes planning applications. This situation is most likely to arise in relation to individuals, such as real estate agents, publicans and small-scale builders who invest in a series of property development projects. Again, the activities of these individuals are most likely to carry the greatest corruption risk.

The definition of close associate does not include parties who may profit from the success or failure of a property development company. Most significantly, this could include the creditors of a company. In many instances the creditors of a company can become the effective owners of the company's assets. Similarly, when a company is in receivership or liquidation the creditors are likely to take a keen interest in the ongoing property development activities of a business. Developers who are merely speculating on changes in development controls are exempt from the ban. The bill says that a property developer is a corporation that makes planning applications. This will exclude speculators who have made no planning applications but have acquired land in anticipation of new development controls.

All members would remember the ICAC inquiry into corruption at Strathfield council. That occurred in the context of a series of land purchases made by small-scale property developers who expected the local environmental plan to be revised to increase the development potential of the land. According to the ICAC report, the developers became concerned when it appeared that the proposed increase in development capacity

would not proceed in full. On this basis the developers began a lobbying campaign. Corruption risks can arise even if no planning application has been made. To link a ban on developer donations to the making of an application ignores all of the other corruption risks in the planning system, and government decision-making generally.

The bill has an unreasonable violation of the civil rights of directors, shareholders, officers and beneficiaries, and an unjust restriction on the rights of their industry organisations. The bill has a harsh impact on the civil rights of individuals associated with property development companies. This McCarthyist bill represents the harshest attempt to selectively strip civil rights from a group in our society since, to quote Urban Taskforce Australia, "the failed Australian Communist Party Dissolution Bill 1950".

Any individual who is a close associate of a property development company will be covered by the ban on political donations. Close associates such as wives will have no right to support issue-based campaigns at election time. A close associate is not entitled to make a political donation. The only exception is a payment made by an individual to be a member of a political party, so long as the payment is under $1,000. The bill is very discriminatory. Although I say we support it, it has some problems. The member for Maitland mentioned the way in which unions donate to the Labor Party. When I was elected I found out that the annual rental for the office we rented from the union in Mayfield happened to tally exactly with the donation it gave to the Australian Labor Party every year. That was a nice way of laundering government funds. The bill is ridiculous. I know we are supporting it, but the definitions are wrong.

Ms CLOVER MOORE (Sydney) [6.25 p.m.]: I support the Election Funding Disclosures Amendment (Property Developers Prohibition) Bill to ban political donations from corporate property developers, which I have called for in this House for many years. The bill defines property developers as corporations that regularly make planning or development applications for residential or commercial development that will be sold or leased for profit. Close associates, including directors, spouses and persons with voting power over 20 per cent, are also banned from making donations. Persons who are not sure if they are covered by this definition can apply to the Electoral Funding Authority to make a determination on their status.

Giving donations provides an opportunity for people to participate in the political process and express their support. In such cases, donations may be selfless, even altruistic, and they may be made with the intention of supporting a candidate who broadly supports the donor's concerns. But certain donations can inappropriately influence policies or decision-making for private benefit. These donations create community concern and undermine public confidence in the political process. Such donations create an imbalance because the donors could have access and influence that is not available to the general public. Developer donations have been an ongoing concern for the community. Developers have the capacity to directly and significantly benefit from planning decisions through approval of multimillion dollar developments, while the broader community is directly impacted by these decisions as a result of factors such as overshadowing, increased traffic or inadequate sustainability.

Planning decisions involve a level of discretionary decision-making, and the community is concerned that developers use political donations to get outcomes in their favour and at the community's expense. At a minimum, developer donations undermine public confidence in the planning system because they create doubt that decisions are made fairly or impartially. At worst, developer donations result in decisions that are not in the public interest. Donations can also create conflicts for elected representatives who may be forced to choose between the public interest and the interest of their party. The Independent Commission Against Corruption acknowledged that developer donations could be used to influence decisions of public officials in its 2007 report entitled "Corruption risks in NSW development approval process".

I have been particularly concerned about developer donations in the past decade because successive changes to the Environmental Planning and Assessment Act 1979 have increasingly favoured developers' interests while at the same time developers have been giving generous donations to the Labor Party. These changes have been at the expense of the community and have reduced the level of transparency, accountability and public input in the planning process. They have removed the certainty of environmental and heritage protections and significantly increased the level of ministerial discretion. Banning developer donations is a first step to restoring and preserving confidence in the political and planning approval process. But donations must also be banned from other high-risk areas where there is potential for undue influence and serious consequences of inappropriate decisions, like from the liquor, gaming and racing, and tobacco industries as well as companies that tender for government contracts.

The most direct way to limit undue influence over the political process or its perception is to allow donations from individuals only and to ban them from all corporations. Individuals and corporations have different motives for funding political parties and candidates. The public does not believe that corporations make large donations because they are community minded; they believe they expect something in return, and I do not believe corporate donations are appropriate in a democracy.

There should also be a cap on the size of individual donations, to reduce candidates' and parties' reliance on any particular donor and subsequently reduce individual donors' influence on political decisions. This would prevent corporations from channelling large donations through individuals. I support a cap of no more than $5,000. This would limit overall campaign expenditure and level the playing field for all parties and candidates, thereby reducing the need to continually outdo campaign budgets. I understand that at least 30 countries have set maximum campaign contributions from donors. It is not always possible to readily identify sources of funding that may pose the potential for a conflict of interest.

While a cap on donations will reduce the influence of any particular donor, candidates may want to return donations that they have accepted where subsequent information identifies possible undue influence. In such cases the public record on the Electoral Funding Authority website should be updated to show the donation has been returned. I have returned donations when I have subsequently suspected a possible conflict of interest. When this occurred, my formal electoral return had already been lodged and there was no opportunity to adequately correct the public record. I believe we need a formal mechanism to enable recording and subsequent reporting of returned campaign donations.

As an Independent, my election campaigns have relied on donations from residents and members of the local community, who have supported me for my achievements, my policies and my form of representation. Political campaign donations are a valuable part of the democratic process. I do not support a fully publicly funded system, because it could either disadvantage new small parties and Independent candidates from contesting elections or cause a considerable drain on the public purse. It is essential for a healthy democracy that new genuine Independent candidates are able to contest an election to represent their communities, regardless of wealth. While this bill is not perfect, it is an important initial step in the right direction and I strongly support it. I look forward to additional reform that will ban other high-risk political donations and restore public faith in our democracy.

Mr MIKE BAIRD (Manly) [6.31 p.m.]: The Opposition does not oppose the Election Funding and Disclosures Amendment (Property Development Prohibition Bill) 2009 as we strongly support the need for comprehensive campaign finance reform. From day one the Leader of the Opposition said that transparency, honesty and accountability should be returned to government in this State. However, the Opposition argues that the legislation is piecemeal and that far more is needed to achieve genuine reform. The Rees Government has taken only a small step when a revolution is required.

This bill creates the perception of doing something rather than making a meaningful change in this critical area. I support the Leader of the Opposition, who clearly articulated the problems with the bill, stating that it does not go far enough. The object of the bill is to prohibit political donations by people or corporations designated as property developers. We have heard concerns about the definition of property developers and that there are grey areas. Therefore, a whole-of-government response is required. Indeed, I raised this issue in my inaugural speech. The fact that this bill is before the Parliament is an acknowledgement that something in the past 14 years has gone astray. What that has meant in relation to issues in the realm of the Government such as planning, smoking and alcohol, we just do not know. Since I have been a member of this House I have argued for reform.

However, I acknowledge that both sides of politics have received donations from areas and industries that have caused concern within the community and potentially removes objective assessment of legislation or reforms. The community has the perception that when particular groups or individuals fund a party it is difficult for politicians to make objective assessments. That perception problem must be addressed. The problem is across both sides of the political divide. I accept that there are many in this place who do not have a potential conflict; nevertheless, the perception remains and it is difficult to determine whether people are being influenced by donations. In my inaugural speech 2½ years ago I noted that donations were at a corrosive level in this State and that significant donation limits, combined with stronger public funding, can ensure that electors are properly informed and have confidence in the integrity of the electoral process.

I would argue that it has taken the Rees Government far too long to acknowledge that the system needs to be changed. Concerns with the bill are multiple. Identification of a single industry for the banning of

donations could open up loopholes. The definition of a developer could be exploited. The changes are piecemeal. Further, the Rees Government has ignored the recommendations of last year's upper House inquiry, which were to ban all donations except those from Australian citizens; impose annual limits on the amount that individuals can donate; cap election campaign spending by candidates, parties and other groups; and restrict taxpayer-funded government advertising in the lead-up to an election. We should be debating those matters here today.

I acknowledge that the Premier stated he wants a review, a committee that moves towards full public funding. But we have had that committee. Despite the bill not going as far as I want, it is a start and is partially the result of the upper House inquiry, which listened to experts and involved both sides of politics. We should accept the recommendations of that committee. I place on record that my submission to the upper House inquiry suggested the need for holistic reform. I outlined five principles, the first being that campaigns should be fully publicly funded. I understand there are constitutional issues around that, but I do not back away from my position on that matter. In a perfect world I would like every member of Parliament in this place to be publicly funded and for no donations to be involved in members being elected. The second principle was that campaign spending should be capped. Third, compliance should be monitored and audited by the Australian Electoral Commission. Fourth, Ministers and members of Parliament in general should not fundraise because it detracts from what they have been elected to do. Finally, I submit that government advertising should be restricted.

Agreement must be reached on a public funding model. However, I do support an upper House inquiry. I put on record that we have a road map on which we could all agree and the inquiry could start tomorrow if both sides of politics had the political will. Indeed, the Opposition has signed up to it. I ask the Premier and the Government why they do not want to sign up to the recommendations of the upper House inquiry. With respect to a limit on campaign spending, I argue that $100,000 should be sufficient for any major party candidate. That amount should also be available to minor party candidates provided they have 7 per cent or 7.5 per cent of the primary vote, or such level agreed to with the minor parties. It is vital that the community is fully informed about the policies. People must be informed about candidates, why they are standing for election, and what their policies are. It costs almost $25,000 to prepare a simple letter to mail out to people in the electorate, so it is not a cheap process. The sum of $100,000 is a fair and reasonable amount for an individual candidate to communicate with the electorate to allow electors to get to know him or her.

With respect to monitoring compliance, I believe the Australian Electoral Commission should monitor the system. Concern has been expressed about third party endorsements. The Australian Electoral Commission could undertake the audits to ensure compliance by all candidates. Anyone who tries to circumvent the rules will be caught. Under a publicly funded campaign the use of third parties will not be permitted. This will enable government to move forward with infrastructure, health, education, environment, and public transport, rather than debating how to raise funds to win election campaigns. Indeed, the distraction of fundraising is a critical point.

I regard election fundraising as a big distraction for the Ministers of this State, the shadow Ministers and other members of Parliament. There is an industry required to raise funds. I reiterate that raising funds in isolation should not imply that every member in this House is in some way, shape or form participating in an activity that is anything beyond the democratic process as it was intended. However, there is no doubt that there is a perception and the potential, through that process, to get some conflict or a lack of objectivity in relation to issues raised. That is really what we are fighting for. At the same time, time spent not undertaking those activities is an opportunity for Ministers, shadow Ministers and other members of Parliament to collectively participate in researching and getting involved in the policy matters that are needed to take this State forward. All of us are tired of New South Wales languishing with regard to every issue. Yet we have the shackles of these sorts of processes, particularly in relation to the endless fundraising cycle, that take us away from the critical gain.

I believe there should be restrictions on government advertising. The Premier wants to move towards a publicly funded model where there is an inbuilt financing method—restricting government advertising. According to Nielsen Media Research, during 2006 the New South Wales Government spent $75 million to $80 million on government advertising. The year before, spending on government advertising was greater than that. I understand that in the year before the last State election the Government spent $110 million on placing advertisements. Just half of that $110 million would well and truly pay for funding an election campaign. That is where the odds should be. I believe that in the last six months before an election there should be no government advertising whatsoever. I well remember Jack Thompson putting on his boots and telling us what a great job the Iemma Government was doing and was going to do. Jack Thompson is allowed to have his opinion and is allowed to endorse whatever he likes. However, at that time Jack Thompson, through government-funded advertising, was engaging in nothing more than an election spiel on behalf of the Iemma Government.

That is simply a waste of public funds. Such funding should be used for the purposes of this State, rather than on promoting a government—of whatever persuasion. I am not trying to excuse our side of politics in relation to that. That is an issue that is fairly attributed back to our side of politics as well. It is time we moved forward and rose above that, and said we are not going to use the public purse to fund personal election victories for a government but we are going to use those funds for a publicly funded election.

I endorse the action taken by the Leader of the Opposition and support his call for the Premier to implement the bipartisan recommendations of the Legislative Council inquiry. The Leader of the Opposition announced that a Liberals-Nationals government would ban so-called success fees paid to lobbyists who deal with the State Government. Again, that is a culture that needs to change. I urge the Rees Government to adopt that Coalition proposal as a priority. I have heard talk about it, but on my understanding at this point we do not have any firm action in relation to that.

I urge the Government to adopt the Liberal-Nationals whole-of-system approach to campaign finance reform. However, it should not do so in a piecemeal fashion. The Government has an opportunity to change the way this State is governed from the date these reforms are introduced forever more. However, doing so in a piecemeal fashion is open to attack. We have heard many reasons why the legislation will struggle. The legislation simply tinkers around the edges of a whole-of-government and whole-of-system approach to campaign finance reform.

If we are to restore the public's faith in the democratic process and put an end to the potential to buy legislative outcomes we need significant changes to the current system. Tinkering around the edges is not sufficient. I believe the upper House inquiry recommendations—or, indeed, my personal recommendations—will do it. In conclusion, I urge all members to work once and for all to improve the governing of this State. If we work across political boundaries there is hope that legislation from the day of reform is done in the best interests of the State and merits of the policy, rather than just being about seeking election outcomes.

Like many announcements from the Rees Government, I believe this legislation is a small tinkering step that falls short of what is required to truly take this State forward. As a member of Parliament who from his maiden speech has articulated and strongly pushed for campaign finance reform in this State, I urge the Premier to deliver on his words and not use this as simply a chance for a political stunt but to generally reform the way this State is governed.

Debate adjourned on motion by Mr David Harris and set down as an order of the day for a later hour.

CRIMINAL PROCEDURE AMENDMENT (CASE MANAGEMENT) BILL 2009

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

[*The Acting-Speaker (Mr Wayne Merton) left the chair at 6.46 p.m. The House resumed at 7.30 p.m.*]

FIXED WATER CHARGES

Matter of Public Importance

Ms KATRINA HODGKINSON (Burrinjuck) [7.30 p.m.]: I ask the House to note as a matter of public importance fixed water charges, particularly for those irrigators in the Lachlan River Valley who have had a rough time in this regard over the past several years. This is the second time in the last fortnight that I have spoken on such an important subject, one in need of urgent action by the State Labor Government. While Parliament is winding down over the next few days farmers in the Lachlan Valley are facing yet another year of unrelenting drought.

In October 2008 the head of climate analysis in the Bureau of Meteorology, Mr David Jones, stated that the current drought was "very severe and without historical precedent". Water is a critical resource for agriculture and the environment. It is a very important and valuable natural resource, which must be carefully used. Without water neither agriculture nor the environment will survive. It is a matter of historical fact that this Government waived fixed water charges for the Lachlan Valley irrigators during the years 2003-04 and 2006-07. But, in response to calls for yet another waiver, the same Labor Government is saying that it cannot afford this measure despite the drought situation being worse in the Lachlan Valley than it was in those two years when the fixed water charges were waived.

On 5 November 2009 the Minister for Water announced the Lachlan Assistance Package, a $4.45 million drought assistance package for the Lachlan Valley. This allows for the deferral of fixed water charges for up to six months. I will return to this shortly. At the same time as the State Labor Government is refusing to waive fixed water charges it is setting itself up as a byword for waste and inefficiency. The Government is renowned for the misuse of taxpayer's funds for politically motivated advertising. The report of the Auditor-General, which was recently released to this Parliament, highlighted more than $86 million of cost blowouts on information technology projects in the Sydney Water Corporation—the latest example of financial waste and mismanagement.

The Government is also known for its bad decisions. In 2001 it approved the release of 141,000 megalitres of water from Wyangala Dam in translucent flows, which I am reliably informed by members of the Drought Sub-Committee of the Mid-Lachlan Alliance of Councils, achieved absolutely nothing. The State Labor Government wasted 11.4 per cent of Wyangala Dam's capacity. As a result, in 2002-03 the general security allocations for the Lachlan Valley were reduced to only 3 per cent for the following year and to zero the year after. In the year 2003-04 the Government first waived fixed water charges.

The Liberal-Nationals Coalition has taken the lead in showing the Government what to do in relation to this. There is no prize for guessing the drought support measure that irrigators most frequently ask for: the waiving of fixed water charges on general security licences. I recently announced, in Forbes, that when in government the Liberal-Nationals Coalition will immediately waive fixed water charges for farmers who have faced two consecutive years of zero general security water allocations. We will also immediately commence a review of the water charging system. That review will recommend a new system to better reflect the cash flows of farmers and businesses, a system that will provide compassion for families doing it tough.

I referred earlier to the Lachlan Assistance Package, which includes $2.1 million for emergency bores at Forbes, Condobolin, Lake Cargelligo, Ivanhoe, Euabalong, Euabalong West, Booligal and Oxley. These works will help the security of town water supplies below Wyangala Dam. The funding also extends the 50 per cent subsidy for domestic water transport to all rural landholders in the Lachlan River Valley downstream from Condobolin. In addition, the payment of fixed water charges for the Lachlan Valley can be deferred for up to six months. As I said, the total cost of that package to the taxpayer is $4.45 million. This will do something to help the situation in the Lachlan Valley but not enough. The amount of money wasted by the Government on the blowout on those Sydney Water information technology projects could have been spent on almost 20 Lachlan Assistance Packages.

Deferring fixed water charges only adds more debt to an already excessive burden carried by most farmers in this drought. On several occasions now I have given the example of one particular Lake Cargelligo farmer to illustrate the inequity of imposing fixed water charges in the middle of the worst drought ever, but this example bears repeating. This farm was a good property. For the twenty years before the beginning of the drought in 2002 it had used barely half of its water allocation to make a profitable return. As with all other irrigators, since then this property has seen only two years—during 2002-03 and 2004-05—with any general security allocation. The allocation in those years was 3 per cent and 19 per cent respectively, not enough to produce any income other than from the sale of water.

This farm has had five failed winter crops in that period. It is running on overdraft. It has had no income since the drought began. Yet over that time the farmer has been required to pay the State Water Corporation an average of $14,500 a year in fixed water charges—charges for water that he is not receiving. The basic unfairness of this cannot be overemphasised. His property is again facing a zero allocation in 2009-10. Over this period he has been forced to pay more than $100,000 in fixed water charges and for a business with no income that is an unbearable cost. The Government's move to allow the deferment of these charges means that this farmer can put off the evil day for up to six months but what will happen then? He will still have no water, no income and he will be deeper in debt!

In the five years since the State Water Corporation was formed it has provided dividends to the Government totalling more than $25 million. Those dividends have been paid despite the majority of the State being drought declared for this whole period. I have spoken to irrigators, and I have listened to their concerns. They have all told me that they are happy to pay fixed water charges when they have an income. They are aware of the need for fixed water charges. They are aware of the importance of paying a fair price for their water. They are not asking for a blanket waiving of fixed water charges but it is grossly unfair to expect them to pay these charges once their income has failed.

The Government should be adopting the policy of the Liberal-Nationals Coalition: to waive fixed water charges for those irrigators who have not received any general security allocation for two years during this drought. We also need a total overhaul of the way in which water charges are fixed in this State. The present system is unfair. I cannot tell you the number of irrigators who have contacted me by telephone, email or in other ways to complain about this unfair tax.

Mr MATT BROWN (Kiama) [7.37 p.m.]: I am pleased that this important matter of fixed water charges has been raised as a matter of public importance in this Chamber tonight. Rural communities across New South Wales are affected by fixed water charges but it also affects those of us in the city. Although many of the farmlands around Kiama appear green, the cost to keep them that way during this drought is an imposition on many of the farming communities in my electorate. Earlier this evening there was a television report on the hardship being experienced in the Lachlan River Valley due to the severe drought and the need for action. The Liberal-Nationals Coalition often claims in this Chamber that the Government should be adopting its policies, policies that are often unfunded and quite simplistic. Those policies are often driven by political grandstanding rather than the offer of any real help to our farming community.

Currently, 73.6 per cent of New South Wales is in drought—up from 67.7 per cent in October. That is a large percentage increase in a short time and it has had obvious effects on the families across New South Wales suffering those conditions. In fact, 24.5 per cent of New South Wales now is considered marginal, with just 1.9 per cent considered satisfactory. Fixed water charges pay for essential bulk water services, which must be provided whether or not water is supplied to private licence holders. Prolonged periods of drought mean that we are forced to use our water management system in new and different ways to conserve and supply water for critical human and industry needs. It is about governing responsibly. When tough decisions have to be made to ensure help is provided where it is needed, this Government is making those tough decisions.

While conditions have improved slightly in the Murray, Murrumbidgee and Snowy catchments, storage levels in all other catchments are either falling or steady. The Government is acutely aware of the challenges our rural and regional communities face. Many Government members live in these communities and interact with the local people on a daily basis. Water users experiencing financial difficulties in paying their bills can take advantage of a hardship payment option. This option provides for payment of outstanding charges by instalments over an extended period. The Government is committed to providing drought assistance programs to support rural families until this record drought breaks. We constantly are assessing all our drought support programs to make sure we target and assist our struggling farmers and rural communities.

The subsidy schemes are enormously beneficial to our struggling farmers. The 50 per cent drought transport subsidy scheme, which runs until the end of this year, is of great benefit to the farming communities in my electorate. This important scheme is helping to reduce the cost of getting feed to the animals and making sure that farms remain viable. Further schemes include waiving 75 per cent of rural Western Land lease annual rents for 2009-10 and continuing employment of the important drought support workers until the end of the year. These people are doing amazing work in the farming communities. We also are continuing the heavily supported Farm Family Gathering and Drought Workshop programs until the end of the year and the Business Drought Assistance Payroll Tax Relief Scheme in the 2009-10 year, with the provision that costs be paid in 2010-11.

These additional support measures mean that the total State Government commitment to drought assistance since 2002 exceeds $500 million. That is half a billion dollars of drought support since 2002. That is not a small amount of money. It is a clear indicator that the Government is using its tax dollars to help those in our community who are doing it tough and giving due recognition to the importance of these communities to the whole State. We understand that country communities in the driest parts of our State are doing it tough. That is probably an understatement.

That is why the Minister for Water recently announced a $4.45 million drought assistance package for towns and water users in the Lachlan Valley, as a result of the prolonged, extreme drought conditions being experienced. These latest measures include a direct contribution from the Government of up to $2.35 million toward emergency town supply drought works and water transport subsidies. On top of this, we have deferred general security fixed water charges in the Lachlan for the first half of 2009-10. This decision will be revisited in 2010 in the light of dam levels and rainfall in the interim. The Government has plans which it is implementing, unlike the Opposition which has unfunded promises.

Mr KEVIN HUMPHRIES (Barwon) [7.44 p.m.]: It is with great pleasure and pride that I speak on this matter of public importance and endorse the issues raised by the member for Burrinjuck, the shadow

Minister for Water. Fixed water charges and general security issues have been matters of importance for years, not only in the Lachlan but across western New South Wales. The member for Kiama has explained the Government's position. The people in rural New South Wales have been happy and thankful for the drought subsidy support measures, particularly the transport subsidies and mental health assistance, which is close to my heart, to help people working and living on the land manage climate change and this difficult time in our history.

Part of the Government's responsibility, and an ethos and culture of the Australian way of life, is to support people who are experiencing difficulty. In times of plenty there is enough to go around and people share and pay their way. Australia is a land of extremes when it comes to land use, living on and making a living from the land, and keeping our communities viable. The people on the land and in our rural communities share the spoils when times are good, and they look to Government to support them and share the pain during the difficult times. Part of the problem is that the New South Wales Government is not backing rural New South Wales over the long term. The New South Wales Labor Government has contributed $500 million over the last seven years, but that is not much when compared to the billions of dollars the rural economy contributes to this State.

It is not right to say that rural people, particularly irrigators facing fixed water charges, do not want to pay their way or contribute. Many irrigators, particularly in the southern part of the State, have had minimal water allocations from their general security licence. I want to know how many general security licences there are in the electorate of the member for Kiama. I suspect none. The irrigation industry—through Michael Murray of the Gwydir Valley Irrigators Association in the north and the Irrigators Council of New South Wales—has said that it wants a scheme similar to the Higher Education Contribution Scheme. It is prepared to pay its way. However, it wants a Government that will back it in the future. The irrigation industry is a multi-billion dollar industry for this State and a huge employer of rural and regional people.

The member for Burrinjuck has alluded to the scheme put forward by the irrigation industry. The industry does not want a free ride. In the good times irrigators are prepared to pay a premium for their water. They have put the program on the table to the former Minister for Water, Phil Koperberg, and the current Minister, Phillip Costa, and they have met with the Minister, his staff and the bureaucracy. The Government acknowledges climate change and knows that industries will experience pain. Responsible governments must build a capacity for difficult times. The industry asks the Government to help it out during difficult times. The average bill for fixed water charges through the Independent Pricing and Regulatory Tribunal and State Water is $14,000. However, it is far greater in some of the higher end-using valleys, such as the Gwydir Valley where I live, where the average charge is closer to $100,000.

We are saying, "Back us in difficult times and we will pay our way out the other side." The Government cannot hide behind the Independent Pricing and Regulatory Tribunal, it cannot hide behind State Water and it cannot use irrigators to extract something that they cannot provide in difficult times just to raise revenue for the Government. In a difficult time all we are asking is for the government of the day in New South Wales to back industry in rural and regional areas, waive fixed water charges and adopt the policy put forward by the member for Burrinjuck. That is why we have raised this issue as a matter of public importance today.

Ms KATRINA HODGKINSON (Burrinjuck) [7.49 p.m.], in reply: I thank the member for Kiama and the hardworking and highly knowledgeable member for Barwon for their contributions to this debate. Further to the contribution of the member for Kiama, I advise him that when the Minister for Water announced the Lachlan support package he stated:

> In recognition of just how serious the situation in the Lachlan is, the Government will deliver a package of relief measures to help local communities and water users.

He also said that the situation facing Lachlan Valley irrigators is unprecedented. If it is so unprecedented, why is the State Government not waiving fixed water charges? The Government has done so already on two occasions in the past seven years. The Minister for Water has failed to produce one good reason why he will not waive fixed water charges. In fact, it has been a struggle to get the Government even to admit to the effect that fixed water charges have on irrigators. In the estimates hearings on the Water portfolio on 18 September the Minister stated that most fixed water charges in New South Wales are less than $1,000. However, in the Lachlan Valley the figure is closer to $3,000 for each licence.

In the past the Minister has used the Australian Bureau of Agricultural and Resource Economics survey, conducted prior to the 2006 Bulk Water Determination of the Independent Pricing and Regulatory

Tribunal, to show that fixed entitlement charges are relatively small. What he did not say was that this survey was based on data reflecting an average year, not the worst drought ever. The relative cost of meeting fixed entitlement charges rises steeply under severe drought conditions. At this time most of the flow in the river is to meet obligations to basic rights holders and environmental flows and very little is available for general security licence holders.

During the middle of the worst-ever drought State Labor has requested that the Independent Pricing and Regulatory Tribunal move towards a full-cost recovery model for bulk water pricing. It is clear that this Government does not realise the full impact of this extreme drought on New South Wales irrigators. The Government is out of touch with the reality on the ground and it only offers, at best, a mediocre amount of drought assistance. As the member for Kiama indicated, before the Lachlan assistance package the last new drought support measure introduced by this Government was drought support workers. That was some six or seven years ago and it only happened because The Nationals in this place put considerable pressure on the Government.

Since 2002 the Government, as the member for Kiama boasted, has provided just $500 million in total for drought assistance programs. That is appalling. It equates to less than $72 million a year and it includes the 50 per cent subsidies for the transportation of stock, fodder and water, drought support workers and other minor measures. Over the same period the Federal Government spent almost $3.5 billion in exceptional circumstances support payments. State Labor's commitment to drought assistance is just woeful. Even the State Water Corporation understands the situation that State Labor has trouble comprehending. I draw the Minister's attention to page 12-2 of State Water's submission to the Independent Pricing and Regulatory Tribunal's pricing determination due in 2010, in which State Water says:

> The continued dry conditions have meant that for many irrigators the worst prospect, in terms of financial impact and equity, is paying large fixed charges while no water is being delivered. This would require significant cash outlays while no cash inflows are forthcoming.

This is the worst drought that Australia has seen since European settlement. It requires a significant response from the Government; a response significantly greater than the miserly $70 million that the member for Kiama boasted the New South Wales Government contributes every year. This Government just spent $1 million carpeting the Harbour Bridge for a breakfast and it is going to spend $5 million on New Year's Eve celebrations for Sydneysiders. We are in the middle of the worst drought ever and that is how the Government is spending New South Wales taxpayers' dollars.

While one of the major food producing areas of New South Wales is slowly dying it is disgraceful that this Government can shrug off a cost overrun on two information technology projects that are worth more than a year's drought support for the whole State. There are many other examples of financial waste by this Government. Former Minister Tripodi ate and slept his way through $69,000 worth of food and accommodation on a three-week overseas trip recently. Any benefit that New South Wales might have gained from that trip was lost when he was sacked from the ministry. That too is wasted money.

One has to ask: Where is the money going to come from to pay for the waiving of the fixed water charges? The Government should put its own house in order and it will have the money. I am pleased that the New South Wales Irrigators Council, the Gwydir Valley Irrigators, Lachlan Valley Water and Murray Water have all published their support for our policy to waive fixed water charges. Again, I call on the Government to immediately adopt our policy.

Discussion concluded.

CRIMES (FORENSIC PROCEDURES) AMENDMENT BILL 2009

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

ELECTRICITY SUPPLY AMENDMENT (GGAS) BILL 2009

Bill received from the Legislative Council and introduced.

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

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

Agreement in Principle

Debate resumed from an earlier hour.

Mr ROBERT COOMBS (Swansea) [7.54 p.m.]: It gives me great pleasure to speak in support of the Election Funding and Disclosures Amendment (Property Developers Prohibition) Bill 2009.

Mr Adrian Piccoli: Just give the money back.

Mr ROBERT COOMBS: I will come to that.

ACTING-SPEAKER (Mr Thomas George): Order! I acknowledge that members have just returned from dinner. However, I remind members to direct their comments through the Chair.

Mr ROBERT COOMBS: I will direct this comment through the Chair: During the dinner break I checked out the relevant Coalition websites and discovered that the private contributions and donations that have been given to the Coalition far exceed those given to the State Government. The bill amends the Election Funding and Disclosures Act 1981 to prohibit political donations made by, or on behalf of, property developers. These changes are the first step pending more fundamental reforms to ban or cap other corporate donations and implement a public funding model for political parties and candidates at State and local government elections.

In particular, the bill makes it unlawful for a property developer to make a political donation. It also makes it unlawful for a person to make a political donation on behalf of a property developer. In order to minimise opportunities for avoidance, the bill makes it unlawful for a property developer to solicit another person to make a political donation. It also makes it unlawful for a person to knowingly accept a political donation made by a property developer, or made by a person on behalf of a property developer. It is widely acknowledged that donations from certain types of donors may give rise to particular concerns at different levels of government, depending on the division of powers and responsibilities in the Federal system.

In recent times donations from property developers have created the perception of undue influence and have undermined public confidence in the New South Wales planning system. A ban on donations from one sector of the business community inevitably raises the issue of corporate donations more generally. That is why the Government has announced that the next State election will be conducted under a public funding model in conjunction with bans and caps on private or individual donations. Legal advice indicates that a total ban or significant cap on corporate donations may impact upon the implied right to freedom of political communication drawn from the Commonwealth Constitution. That gives rise to constitutional issues that could render any ban or cap invalid. Public funding of election campaigns is therefore essential if we are to progress these serious donations reforms in New South Wales.

Devising a public funding model is a very complex task that must have the full support of all parties. For that reason, the Government has referred the issue of a public funding model to the Joint Standing Committee on Electoral Matters. The committee's inquiry will build on the work undertaken by the Select Committee on Electoral and Political Party Funding in 2008. In its report the select committee acknowledged that measures such as bans and caps would necessitate an increase in public funding. The new inquiry provides a forum for consideration of a public funding model that will ensure that the views of all parties, candidates and the community are taken into account.

There is broad community for support measures of this kind and the Government has considered and is taking the issues very seriously. Of course, this issue emanates from a significant commitment given to the people of New South Wales about 2½ weeks ago by Premier Rees. I note that the same kind of commitment was not made by the Leader of the Opposition in his contribution on this bill. First and foremost, his was a confusing contribution. We initially heard that the Coalition would not oppose the bill. If that statement had not been made, the rest of his contribution suggests that the Coalition intends to do just that—that is, to oppose the bill.

Of course, the Leader of the Opposition offered very little in the way of solutions. That is not surprising because journalist Andrew Priestly reported in the 30 September edition of the *North Shore Times* that New South Wales Opposition Leader Barry O'Farrell said that the Liberal Party would not ban political donations and

that he was responding to comments made by Ku-ring-gai Residents Alliance President Chris Drummer calling on the Liberal Party to commit to banning donations if the party won government in 2011. It is no wonder that he was a little coy in leading for the Opposition on this bill. As I said, he reluctantly gave overall support for a bill that requires bipartisan support. Once again, it is unfortunate that the Opposition is full of huff, puff and fluff on this matter. When it comes to making hard decisions and implementing practical measures to ensure that the appropriate scrutiny is undertaken, we hear very little from members opposite. In fact, the Leader of the Opposition said we will have to wait and see.

The Government believes that this Parliament has an opportunity to set the pace. There is little doubt about that. Work is being undertaken in the Federal arena on a range of issues with regard to political donations. The Federal Parliament will undoubtedly examine developer donations, corporate donations, a publicly funded model and trade union donations. Because the New South Wales Government has accepted that and has decided to fast-track legislation, we have a real opportunity to set the pace.

[*Interruption*]

I note that the screaming and interjections are starting. It is not as though members opposite will not be involved in the process. It would have been easy for the Premier to say a couple of Saturdays ago that the Government intended to do this and that and to outline a practical response. He said that from that moment on the Government would not take developer donations. Unlike members opposite, we banned tobacco company donations a long time ago. The Premier also said that we are facing many complex issues and that we need a bipartisan approach and conclusion. He therefore passed the responsibility for achieving that goal to the Joint Standing Committee on Electoral Matters.

Because of the importance of this issue, the Premier asked the chairperson of the committee to convene a deliberative meeting and he took time out from his very busy program to address that meeting. He spoke about the importance of the issue and the responsibility the New South Wales Parliament has given the committee to achieve the best possible outcome. I am confident that the committee will achieve that goal—and not only because I am a member of it. I alert the member for Coffs Harbour to that fact. Contrary to the member's interjections, the membership of that committee suggests to me that it will approach the issue in a genuine way. I am sure that together we will reach an outcome that will put to bed some of the problems and the public perception associated with this issue and that we will move forward in New South Wales. We will have a system that will prevent corporate and outside influence as a result of donations.

This is a very important piece of legislation. In fact, I do not think that this Parliament has dealt with a more important piece of legislation this year. Rarely has the onus been more heavily upon us to ensure that we put aside the party political behaviour that we all engage in from time to time and come up with genuine, practical measures to restore public confidence in our electoral system.

Mr ANDREW STONER (Oxley—Leader of The Nationals) [8.09 p.m.]: Nathan Rees has been the leader of the New South Wales Government for more than 12 months and during that time he has hidden behind the excuse that any reforms to the political donation arrangements should come from the national level. He has finally responded to the serious concerns that have been raised with this Election Funding and Disclosures Amendment (Property Developers Prohibition) Bill 2009. What a disappointing response. It is now 12 months since the shocking revelation of Labor's Wollongong donations for development scandal and only now have we been presented with a half-baked, ineffective bill in response.

Despite the table of knowledge, Joe Scimone, Noreen Hay and a cast that would not be out of place in a new *Underbelly* series, the Premier tosses up a charade of a bill after 12 months of dithering. Instead of the real changes proposed by the New South Wales Liberal-Nationals Coalition, he has opted for a political sham not bipartisanship and genuine reform. The Liberal-Nationals Coalition policy includes the banning of all donations except those from Australian citizens, imposing annual limits on amounts individuals can donate and capping election campaign spending by candidates, parties and other groups, including third parties such as unions.

The Premier has taken a cowardly approach by banning a particular type of donor; that is, property developers. In so doing he is seeking to set up the property development industry as a scapegoat for Labor's rotten culture that has led to a climate conducive to corruption. In other words, the bill does nothing to stop the donations for decisions culture that the New South Wales Labor Government has become infamous for. Only a few weeks ago the hypocrites in the New South Wales Labor Party were sending out invitations for a million-dollar fundraiser and earlier this year we saw glossy pamphlets going out for the so-called business dialogue from the Labor Party, with fees up to $110,000 a year. This so-called reform really is a sham.

It is clear that New South Wales Labor is not serious about reform, particularly when it is going to finger only property developers to outlaw donations. It has conveniently sidestepped making any significant changes to the system so that its biggest backers, the unions, have exactly the same ability to fill its coffers. According to the New South Wales Electoral Funding Authority, nearly $4 million has been donated to the New South Wales Labor Party by trade unions over the past 10 years. One of the biggest donation cheques was $137, 844 from the Transport Workers Union. At a time when New South Wales Labor is on the nose. the incompetent Premier is delaying real action on this issue because it would see an end to these lucrative union donations.

The public deserves to know that all State Government decisions are based on merit and public interest, not on the size of your wallet or special interest. The Premier has shown that he has been handcuffed by the money coming from unions. The New South Wales Liberal-Nationals think this bill certainly does not go far enough. I have already outlined our policy, which would be a comprehensive reform to ensure fairness and the elimination of a culture of decisions for donations—a culture that is conducive to corruption.

We are talking about property developers. In 2007 Unions New South Wales tried to sell its picturesque parcel of land—Currawong—for $15 million. It planned to use the money to help fund election campaigns for the Labor Party. The site was heritage listed earlier this year, and following sustained community outrage the planning Minister, Kristina Keneally, was forced to refuse the developer's proposal to develop the site. Just this week a consultant to Unions New South Wales on the Currawong sale attempted to have a massive parcel of land rezoned at Badgerys Creek. Yet, under these Clayton's donations reforms unions are not regarded as property developers and are therefore exempt. Put simply, the bill is full of holes so big you could drive a B-double through them.

The Leader of the Opposition described the myriad loopholes in the bill that will enable Labor to continue to reap donations based on favourable decisions not only from unions but also from a wide range of people, some of whom can reinvent themselves to exploit the loopholes. I will not reiterate all the loopholes, but there is no doubt that Sussex Street had a hand in the development of this half-baked, loose, Clayton's donation reform. The Premier should get fair dinkum about donation reforms by adopting the New South Wales Liberal-Nationals Coalition policy to deal with all dodgy donations once and for all.

Mr PAUL PEARCE (Coogee) [8.14 p.m.]: I support the Election Funding and Disclosures Amendment (Property Developers Prohibition) Bill 2009. The object of the bill is to prohibit political donations by property developers. The bill provides that, first, it is unlawful for a person to make a political donation if the person is a property developer or makes the donation on behalf of a property developer; secondly, it is unlawful for a person to accept a political donation that was made by or on behalf of a property developer; and, thirdly, it is unlawful for a property developer or a person on behalf of a property developer to solicit another person to make a political donation. Further, the bill includes close associates of property developers as property developers for the purposes of these restrictions and, finally, the bill includes loans as political donations—other than loans from financial institutions.

A couple of the provisions in the bill are quite significant. In particular, when looking at the role of property developers in the political process the bill must be read in the context that there is now a requirement on persons when making a local government development application to declare that they have made a donation to a political party or candidate. Already the Government has introduced a level of transparency. In addition, as we saw in Britain, the loans process was used by both political parties to circumvent what were otherwise very reasonable laws preventing political donations. The bill has to be looked at in the overall context of what has transpired in the past couple of years in cleaning up the public perception of the development industry.

As stated in the agreement in principle speech, the bill forms the first step in reforms to remove the culture of donations from the body politic in New South Wales. There is no doubt in my mind that the most insidious aspect of political donations in New South Wales is those from the property industry. It is not corruption of the individual—since the Askin days New South Wales has been largely clear of that—but rather it is the essential corrupting of the process in the public mind. As someone who has been in public office for more than 25 years at local and State level, I can proudly say that I have never sought or received a donation from a person or company involved in property development. Nor have I sought nor received any substantial donation from the liquor industry.

There is an absolute need to move down the path of full public funding of election campaigns. This will not be easy to achieve because the taxpayers of New South Wales will undoubtedly oppose it. It will be necessary to ensure that the process is not abused as it was by the likes of One Nation and its former Federal

member Pauline Hansen, who regarded public funding as a method of generating income for herself. In my opinion, it is necessary to cap total spending not only of parties in a general campaign, but also of funding in individual seats. Without such a cap, a wealthy individual would have the opportunity to significantly outspend rivals and effectively buy a seat. Similarly, it is necessary to control spending by third parties. Without such control we will head down the path of the corrupt United States model. However, we live in the real world and it has to be recognised that achieving these results will be difficult in New South Wales and possibly nationally within the context of the High Court's judgements, which have already been referred to by various members.

I note that the Leader of the Opposition and the Leader of The Nationals spent a considerable part of their speeches attacking the trade union movement's support of the Australian Labor Party. I point out to those ill-informed individuals that the Australian Labor Party was founded, and remains in the minds of many of its members, as the political wing of the trade union movement. I am proud of that. I also point out that trade unions comprise Australian workers whose sole objective is to ensure fairness in the otherwise brutal capitalist economic system. At a personal level, if the Liberal Party wants to permit affiliate membership of members of the Business Council of Australia it should feel free to do so. I am sure various companies could change their articles of association to permit this. At least it would reflect the reality of the political debate in this country. I return to the bill, which defines property developer in the following terms:

> **Meaning of "property developer"**
>
> The Bill defines a ***property developer*** to be:
>
> (a) a corporation engaged in a business that regularly involves the making of relevant planning applications by all on behalf of the corporation in connection with the residential or commercial development of land, with the ultimate purpose of the sale or lease of the land for profit, or
>
> (b) close associates of such a corporation.
>
> Any activity engaged in by a Corporation for the dominant purpose of providing commercial premises at which the corporation or a related body corporate will carry on business is to be disregarded for the purpose of determining whether the corporation is a property developer.
>
> A ***close associate*** of a corporation includes:
>
> (a) directors and officers of the corporation and their spouses, and
>
> (b) a related body corporate of the corporation (within the meaning of the *Corporations Act* 2001 of the Commonwealth), and
>
> (c) persons whose voting power in the corporation or a related body corporate is greater than 20% and their spouses.

I read with some amusement the submission made by the various mouthpieces of the development industry. I regard the fact that they feel aggrieved by the legislation as a strong point in its favour. It is clear that the legislation will be effective in significantly reducing, or better still, removing their pernicious influence in the politics of New South Wales. As an alderman on Waverley Council in the early 1980s I saw firsthand the corrupting influence of the property development industry. A hands-off approach by the Liberal Party at the time allowed a corrupt council planner to make merry. Indeed, the late Donald George Stait was the first person convicted as a consequence of an Independent Commission Against Corruption hearing. Many of us in the community believed that the then Liberal mayor, who recently appeared on A *Current Affair*, could not have been unaware of what was going on, particularly as the person involved was acting in a legal capacity for many of the applicants before the council at the time. The bill should be supported as a first stage in an overall renovation of the electoral funding laws in New South Wales. I encourage the House to support it.

Mr ROB STOKES (Pittwater) [8.22 p.m.]: The Election Funding and Disclosures Amendment (Property Developers Prohibition) Bill 2009 amends the Election Funding and Disclosures Act 1981. My first comments relate to the substantive points and I will then move on to general matters. When I examined the bill I noted that it amends section 96 GA subsection (1). Any legislation that requires so many sections, subsections and paragraphs probably should be junked. It highlights the complexity and lack of transparency of the legislation. It makes it very difficult for laypeople and the people of this State whose rights are protected under such legislation to understand. The second point relates to amendments to section 96GB, the meaning of "property developer". I note that subsection (2) of section 96GB states:

> (2) Any activity engaged in by a corporation for the dominant purpose of providing commercial premises at which the corporation or a related body corporate of the corporation will carry on the business is to be disregarded for the purpose of determining whether the corporation is a property developer unless that business involves the sale or leasing of a substantial part of the premises.

This is clearly aimed at supermarket chains. For example, Fabcot Pty Ltd, the property arm of Woolworths, would be exempt from being a property developer because of its relationship with its dominant body corporate. I ask the Minister in reply to tell the House whether this measure was inserted because of lobbying by vested interests, such as supermarkets. If so, did they provide any donations to the Government? That is a significant loophole through which the powerful interests of supermarket developers are protected.

I note the single largest development issue in my community of Pittwater at the moment relates to a Woolworths shopping development in Newport. People are not concerned about Woolworths but the fact that it is a substantial redevelopment of the site. It will be a subterranean supermarket topped by three levels of aboveground car parking. It offends the development control plan of the area. The community is not concerned about what is sold from the site but about its overdevelopment. Exempting supermarket developers will make a big hole in any effect the legislation may have. Subsection (2) of section 96GB states:

> (2) Any activity engaged in by a corporation for the dominant purpose of providing commercial premises at which the corporation or a related body corporate of the corporation will carry on business is to be disregarded for the purpose of determining whether the corporation is a property developer unless that business involves the sale or leasing of a substantial part of the premises.

At what time does that occur? If Woolworths, Coles or Aldi were to sell off a premises in 10 years would that make it a property developer? If so, it should never make a donation because the exemption under this provision no longer applies. The right to sell exists, regardless of whether it is taken up. A supermarket chain that develops a site may originally intend to use the premises for a supermarket but may later, for commercial reasons, lease it or sell it. At that time it has the value of the property development, so in effect it is a property developer. I do not see any logical reason to exempt them; they are no different from any other person involved in property development. I would be interested to know if any supermarket chain made donations and subsequently lobbied the Government in relation to this provision. I raise a point of legislative drafting. Proposed section 96GB subsection (3) paragraph (c) states:

> (3) In this section:
>
> ***close associate*** …
>
> (c) a person whose voting power in the corporation or a related body corporate of the corporation is greater than 20% or the spouse of such a person.

Does that mean their voting power is greater than their spouse, or does that mean that their voting power is greater than the voting power of their spouse? What does it mean? It is not plain English. I think the Government means "a person or their spouse, whose voting power in the corporation". This wording is another demonstration that the bill has been cobbled together. Despite the Premier's statements about plain English, the bill is not in plain English. It does not make sense and it will end up in the courts.

The bill is a clear case of closing the gate after the horse has bolted. Over the past 14 or 15 years the Government has junked good urban and regional planning in this State in a way that has favoured and promoted the interests of certain property developers. A good planning system is all about providing a clear and certain process for everyone with an interest in the planning system to follow, outlining clear and certain rights and obligations that apply to everyone regardless of their relative size and power, and regardless of whether they have made any political donations. It should be a clear process, followed by an outcome that, by definition, should not be predetermined. In the same way that parties in a legal action should not know the outcome before the evidence is heard, so the parties in a development assessment process should not know the outcome of a development application before it is assessed.

Yet, under part 3A and associated State environmental planning policy major projects, Labor has utterly and completely subverted good planning process. It has turned good planning on its head. For those lucky or favoured property developers who have access to the part 3A process, perhaps following the depositing of large donations at Sussex Street, there is now no certainty of process for applicants, neighbours, councils or local communities with environmental impact statement requirements tailor-made by the director general and not set out in legislation for all to see. The same is true of the new gateway process for rezoning. Rezoning can, with the stroke of a pen, make millions for a property owner who may or may not be a developer under this legislation. Yet there is now no clear, established process outlining how the application will be publicly exhibited or even if the local community will have any right to participate in the rezoning process, regardless of the impacts it may have on their lifestyles, property values or the local environment.

A certainty has been removed from the planning process and—with opacity and red tape at every turn—certainty of outcome for that favoured coterie of developers that achieve access to part 3A has been

virtually guaranteed. The clear evidence from an analysis of part 3A applications is that if the Minister decides that a person can access the system—if a person is lucky enough to gain access to the system—he or she can assume that the project will be approved. Of all the applications that the Minister has assessed, less than a handful has been refused. The reality is that if a person gets access to the system, his or her application is virtually guaranteed to get through. From good planning, with a clear process for all and no outcome before assessment, Labor has progressively warped, tortured and twisted this process so that planning today is an uncertain and unjust process, favouring powerful developer interests, followed by an outcome that is basically known before any assessment of the merits is undertaken.

This is not empty rhetoric on my part. Members can simply read the judgement of Justice Lloyd in *Gwandalan Summerland Point Action Group Inc. v Minister for Planning*. In that case a memorandum of understanding was signed between Rosecorp—which I suspect was a developer donor to the Labor Party, surprise, surprise—and the former Minister for Planning, which would allow sites at Gwandalan and Catherine Hill Bay to be developed for residential purposes. A new State environmental planning policy was gazetted, which permitted the rezoning of the land. The area had previously been designated as a wildlife corridor between the Central Coast and the lower Hunter and was classified as an "environmentally sensitive area of State significance". The rezoning increased the development potential for both Catherine Hill Bay and Gwandalan.

A concept plan and project application were lodged by the developer under part 3A. Then, under ministerial discretion, it was called in. The court subsequently described the Minister as having "a favourable disposition" towards the development proposals. In considering the issue of apprehended bias, Justice Lloyd confirmed that at the time the approvals were granted a fair-minded lay observer, having knowledge of the material objective facts, might reasonably apprehend that the Minister might not have brought an impartial and unprejudiced mind to the determination of the applications. Justice Lloyd described the Minister as being "enamoured with the whole proposal of land-bribe in exchange for rezoning and associated development". As Maddocks partner Christopher Connelly said on 23 October 2008 in *The Fifth Estate*:

> Before and during the assessment of the DA [in the Catherine Hill Bay case], the Minister and his department had used words that demonstrated our level of finality and certainty in regards to the outcome of the application.

Even then, when the current Minister for Planning was defending this crazy decision by the former Minister, her legal team said in the proceedings before the court, "a relatively low degree of neutrality is to be expected of the Minister in making a decision under part 3A", and that it was acceptable for the Minister to have "a favourable disposition" to a particular development application. This proves my point: Labor has now turned good planning on its head. It is now not about certainty of process; it is all about certainty of outcome if you pay.

The reality is that the legislation does nothing to fix the mess that donations by property developers to the Labor Party over the past 15 years have made of the New South Wales planning system. Those powerful property developers who have made huge donations to the Labor Party have already got what they paid for—a planning system which, through part 3A and the State environmental planning policy major projects and other planning policies, has delivered them flexibility at the expense of the community. The Labor Party has already given these property developers the favours they have paid for. There is literally little more damage that can be done to good planning in this State. There is nothing more that the Labor Party can sell. Developer donations have already done their damage. The legislation is like Labor putting a heritage order on a house after it has already been demolished: Labor says that it is taking action, but its claims are hollow, cynical and ultimately meaningless.

Prohibiting donations from one class of property developer will not deal with the massive corruption risks that Labor has placed into the planning process. There is still capacity for the planning Minister or senior planning staff to lean on panellists, for example, in the multitude of panels Labor has created. None of them has security of tenure, none of them has a standing staff, and none of them has any security in their positions. There is this subtle, understated pressure, but it is understood. The panellists understand where their bread is buttered. There is still discretion within the major projects State environmental planning policy and within part 3A. With discretion comes corruption risks, and in the New South Wales planning system there are truckloads of it.

I cite the case of Currawong, in my community of Pittwater, where part 3A and the major projects State environmental planning policy were used to call in a development application for a rezoning, subdivision and redevelopment of bushland owned by Unions NSW. Surprise, surprise, the part of the major projects State environmental planning policy that was used related to a rezoning of 25 lots. Surprise, surprise, the rezoning was for 25 lots. There was no transparency in the way the Minister arrived at his decision to call that matter in.

In any event, Unions NSW remains the property owner of that site. Unions NSW signed the development application; it gave owner's consent to the development application. Under this legislation, Unions NSW is not a property developer, yet it stood to make $15 million out of this deal. Hopefully the Government will see sense and make sure that Currawong is repurchased and turned into a State park, for the benefit of all the people of New South Wales.

If the Government were serious about the influence of property developers, it would reform the planning system to remove opportunities for special deals using ministerial discretion via a process available only to a favoured few. This is not justice, this is not transparent, this is not good government. Until the legislative edifice paid for by developer donations is dismantled, the Government will be unsuccessful in its vain attempts to disassociate itself from its shameful history of giving special access, and even passing special laws, to reward loyal developers for the donations that have financed its term in office.

The other obvious flaw in the legislation is its manifest discrimination. A local homebuilder or architect will be prevented from democratic involvement, but not owners of properties that are rezoned, or real estate agents who might benefit from a property deal, or the very lobby groups that represent the interests of the big, powerful development companies. Drug dealers can be potential donors. Armament dealers, or anyone else, can be potential donors—but just not anyone whose only sin is a trade certificate, a toolbox, a ute, and a passion to build people places in which to live. The fact is that it is not the trade of the person giving a donation that is the issue; it is the reason that motivates the person to donate. Anyone who is a citizen should be entitled to donate—their time, their money, or whatever—and their interest in donating should only be to be represented by people whom they trust to be fair, incorruptible and honest. That should be their only motivation. That is what the laws should aim to address. It should not be the trade of a person that matters, but their motivation.

A good way to do this is to ensure that no-one who is not a natural person should be able to donate. It is not clear why a corporation, a non-natural person, should have any interest that a citizen might have in the outcome of an election, other than the interests of the corporation. Under the Corporations Act, they have a duty to act in the best interests of the corporation. They are not thinking as a citizen; they are thinking as someone who wants influence, wants special deals and special access. If the Government were genuine about reforming the system it would not stop at certain property developers but would implement wholesale reform.

Mr GREG PIPER (Lake Macquarie) [8.37 p.m.]: I support the intention of the Election Funding and Disclosures Amendment (Property Developers Prohibition) Bill 2009, but I am unconvinced that it will deliver the desired outcomes. There is a genuine need to remove the potential for, as well as any perception of, influence by property developers, but I do not support the bill as an ideal way of achieving this. The bill works around the edges of a problem and focuses particularly on the development industry, as it has been the source of a great deal of embarrassment for the Government in recent times. That said, this is not a new perception and I do not believe that either side, or for that matter any of us, needs to be overly claiming the high moral ground; we just need to get on and fix perceived or actual problems with the system.

The bill seeks to do this without addressing important, fundamental changes that should be made and, while targeting developer contributions, excludes from the ban other categories of corporate or institutional donations such as have been seen from the liquor and tobacco industries. These industries have been strongly linked to self-serving campaigns in the past, and clearly there is a need to address perceptions of undue influence from these and other industries. The bill outlines who would actually be a property developer, and also who would be interpreted as a property developer. It then speaks of a process for deciding that a person is not a property developer, and states the certainty that such a decision would stand—even if it were subsequently shown to be in error.

There is even an extraordinary limitation whereby it is not an offence to commit an unlawful act if the perpetrator does not know that the act is unlawful. This is not the approach taken to unlawful acts under other legislation. It is inconceivable that an embezzler, for example, could have any defence in his or her ignorance of the law. The changes introduced through this bill will be inadequate for the broader purpose of reforming electoral funding because they are not broadly applicable. It would be simpler and more effective to set constraints on funding, particularly corporate funding, rather than to predict and pre-empt the many creative ways in which property developers could channel money to candidates.

Under changes announced not that long ago by the Premier donations no longer go directly to party candidates but to the party itself. That is an example of the machinations that could be cleverly used to obfuscate the connections between donors and candidates and to obscure the money trail. When the requirements for

reporting were transferred to the organisation rather than the individual it brought a benefit to candidates for large parties, and an increased burden on Independents and candidates for minor parties—I declare an interest there, if I can.

Mr Andrew Fraser: Aha!

Mr GREG PIPER: Well, I am being upfront about it. This is not the direction that funding reform should take. It would improve the integrity of our democracy if there were a general approach to limiting donations and, therefore, a general limitation on the potential for political influence. This could be achieved in a number of ways, as I stated in my submission to last year's Legislative Council inquiry into electoral and political party funding.

Some of those key points included that donations should be capped at a level that will ensure a lower possibility of influence; donors should declare all donations made, subject to a very low threshold; candidates should declare all donations received; there should be a cap on expenditure for each Independent or party in each electorate and a candidate's personal contribution should form part of this capped amount; candidates should declare all expenditure specific to the electorate, or apportioned to it; records for donations and expenditure for each electorate and each party as a whole should be easily accessible and understandable; there should be a common reporting period for declarations of donations and expenditure; donations and expenditure for each electorate should be reconciled with each other; and there should be limited public funding based on the number of primary votes and, subject to a threshold, it should be available for each candidate.

I strongly believe that the public will only have confidence in any system of funding if people are able to scrutinise the finances of candidates. The public should have access to clearly understandable information and each candidate should have the responsibility of providing this. Further, electoral success should not depend on outspending opponents. Electoral success should depend on policies and performance, not on the size of the budget. Candidacy should not depend heavily on the ability to attract donations. However, if there is to be any system of donations and/or public funding the reporting system must be accessible, simple and complete. This bill, flawed as I see it to be, deserves support because on face value it seeks to isolate property developers from the decisions that may benefit them, but it does not provide a solution to the perceived and real issues of political influence.

Further points that I consider merit examination for inclusion include caps on donations. In that regard I note the comments by the Leader of the Opposition in the order of $1,000 to $1,500 per entity. I endorse a figure in that area. In my submission to last year's inquiry I suggested a figure of $1,000 per entity being a private person, corporation or some other entity including organisations such as industry associations or unions. Further proposals included the reporting of all monetary and in-kind donations other than unpaid labour; caps on expenditure per candidate per electorate; the reconciliation of donor and candidate declarations within the same reporting period; partial public funding; a suitable independent body to vet all government advertising in the six months preceding an election; access by every voter to complete information on funding relevant to the particular electorate; accountability of every candidate for all campaign income and expenditure applicable to the electorate, and this information should be available to the public from a cut-off date one week before polling day; and the setting of a realistic limit at $200 or above for people providing donations, and it would be the responsibility of the candidate to report and fully account for all such donations.

While I support the Government in trying to improve the situation that now exists, I believe that any new system should not be so complicated as to deter participation by individuals or minor parties within our democratic political system. Perhaps there has been a major over adjustment. We need to start with a clean slate. We need to create a clear, concise and robust system but one that does not deter people from entering the political system in standing for office in Federal, State or local governments. It is becoming unduly complicated and daunting for an individual, unless they join a political party, to run for office. I look forward to further amendments to the election funding process. This is the first brush, if you will, to address one issue in the election funding process. I am also looking forward to amendments that will produce a simply understood and robust system to improve the existing poor perception of our electoral system within the broader community.

Mr RAY WILLIAMS (Hawkesbury) [8.45 p.m.]: In speaking to the Electoral Funding and Disclosures Amendment (Property Developers Prohibition) Bill 2009 I make the comment that amendments to the conditions governing the making of donations are overdue. Across New South Wales there is a perception that the Government is corrupt. The reason for that perception is that repeatedly—sometimes week after week—

we hear of massive amounts of donations from property developers to the State branch of the Australian Labor Party. No-one disputes that this situation should be remedied. In fact, the Opposition has been calling for reform in this are for the past 2½ years.

Just over a year ago when Nathan Rees became Premier he took part in a debate at a pub with the Leader of the Opposition. At the conclusion of that debate he and the Premier shook hands on a deal to reform the conditions of making donations. Unfortunately, the Premier has now reneged on that deal and not followed it through. We now have before the House a Clayton's amendment to political donations. The bill has major holes—referred to by the Leader of the Opposition and member for Pittwater—big enough to drive a proverbial truck through.

I turn to the part of the bill that states that it is unlawful for a person to make a political donation if that person is a property developer or makes the donation of behalf of a developer. One could say that would close a loophole because no property developer could make a donation. But just last week an article appeared in the media acknowledging that Mark Arbib, a Federal member of Parliament, and Eric Roozendaal, the New South Wales Treasurer, had purchased cut-price units well below market value. Mr Arbib and Mr Roozendaal then made a substantial windfall by selling those units, which could happen in myriad cases.

Money from a property developer could be flushed through to political parties in that process. That is but one of many arrangements that have been raised. Should there be reform for political donations? Absolutely there should be. It is widely acknowledged that political parties depend on donations to run political campaigns, which are costly. But, as the Leader of the Opposition correctly said, those donations should be capped, together with the expenditure of those political parties. That would mean all parties would then be on a level playing field. There would be no problems if donations were capped between $1,000 and $1,500 and if they were declared.

Recently a couple of cases have been highlighted in the media in my electorate. Hardie Holdings was raised via Rosecorp having developments in the Hunter. Some years ago Duncan Hardie, the managing director of Hardie Holdings, had a website that was referred to whilst he was undertaking a development in that area. At the time I was a member of the Hills Shire Council. The comment on that website was, "We specialise in developing sensitive land".

Sensitive land should never be developed. As the member for Pittwater said, when we allow donations to political parties we get poor planning outcomes. In an area close to Madam Acting-Speaker's electorate of Mulgoa a company by the name of Jacfin developed sensitive land within the Penrith area. It was made public that the company—I believe owned by Jackie Waterhouse—had donated $300,000 to the Australian Labor Party. I debated this issue almost a year ago. When councillors argue that land is sensitive and should not be developed the Minister for Planning should not be able to override the decision and allow such development to take place.

Another development a little closer to home is the Riverstone West Business Park. When it was announced only last year it was made public that a $150,000 donation had been made by PacLib and the Mastergroup to the Australian Labor Party. That is the reason for a community perception of corruption in relation to development across New South Wales. The State ends up with poor planning outcomes. Why does the Government allow poor outcomes from these developments that impact on our roads, transport and health? Because it is happy to receive donations to fill up the coffers of the Australian Labor Party rather than get good outcomes for New South Wales residents. That is why the Opposition will continue to push for changes to political donations.

In another area not too far away—perhaps in the electorate of Madam Acting-Speaker—at Badgerys Creek there was a development of land owned by Mr Perich. Members would remember that sizeable block of land, which I believe had been a dairy farm. Mr Perich received hundreds of millions of dollars for that land. There is nothing wrong with a hardworking dairy farmer receiving money for the sale of his land. However, once again, we find that Mr Perich had raised tens of thousand dollars through fundraising activities for Craig Knowles, who at the time was the Minister for Planning. It is rife across the board, and we continue to get poor outcomes from developments scattered across the State. There is no transparency.

Who could forget the myriad corruption that occurred at Wollongong City Council? I will not go over the gross sex-for-development scandal that surrounded that council. The council was subsequently removed, as it should have been. The one issue I well remember about that scandal is the expansion of a development from

nine storeys to 14 storeys. Nine storeys were permissible under the development control plan for the area, but an application was approved for 14 storeys. That involves a massive outcome for the developer, who would gain literally tens of millions of dollars over and above the expected profit. That is why the Wollongong council scandal ballooned. We saw extraordinary happenings, such as the table of knowledge, where people discussed outcomes in exchange for donations to the Australian Labor Party.

Recently the Premier raised an issue in the House about money that had been donated by a developer named Buildev. He criticised the Mayor of Hawkesbury for making a decision in favour of Buildev, which had donated to the Liberal Party. The donation had been declared; it was not a secret. The Liberal councillors voted on behalf of a development for Buildev. Is that wrong, given that Buildev had donated not to the local councillors but to the Liberal Party? Looking a little further, we find that whilst Buildev had donated $30,000 to the Liberal Party it had also donated $400,000 to the Australian Labor Party over the same period.

Time and again when the Government raises issues about political donations to the Liberal Party they are quickly shot down because the Labor party has taken hundreds of thousands of dollars in political donations, and that will continue because the legislation has so many loopholes. Those loopholes must be plugged. I refer to an article, which members whose offices are located on level 10 would be aware of. The article headed "Truckloads of donations" and written by Andrew Clennell, State political editor, appeared on the front page of the *Sydney Morning Herald* on Thursday 10 April 2008.

Mr Steve Whan: Point of order: Standing orders prohibit a member quoting directly from a newspaper.

ACTING-SPEAKER (Ms Diane Beamer): Order! I ask the member for Hawkesbury to state the date of the newspaper article.

Mr RAY WILLIAMS: I have already done that, Madam Acting-Speaker. I am happy to give the date again for the benefit of the Minister for Emergency Services. The article appeared on the front page of the *Sydney Morning Herald* dated Thursday 10 April 2008, written by State political editor Andrew Clennell. The headline, in case the Minister missed it the first time, is "Truckloads of donations". The article refers to the $750,000 that found its way into Labor's kitty. I will hold it up so members can confirm that I am reading from the newspaper article. This is one of the worst examples of political donations, and highlights how New South Wales taxpayers' money is washed through the union movement back into the Australian Labor Party.

It is New South Wales taxpayers' money, not money from a developer building a multistorey unit. The money is sent from the Government to a union, it is washed through the union, and then given back as a donation. Ironically, there is nothing in this legislation to rule out this practice. I am happy to say that the Liberal-Nationals Opposition has a different view. We look forward to taking office in March 2011 and changing the culture of political donations. We will change the culture whereby unions can receive hundreds of thousands of dollars. The article states:

> Government agencies run by the Minister for Industrial Relations, John Della Bosca, have given more than $700,000 in grants over the past six years to the Transport Workers Union …
>
> Over the same period, the TWU has given $746,000 to the NSW Labor Party.

That says it all. It is an absolute disgrace. Millions of dollars of hard-earned taxpayers' money are washed through the union movement and goes back to the Australian Labor Party, not for the benefit of New South Wales but for the benefit of the Australian Labor Party to fund its campaigns. There is not enough money in the world to save Labor members at the next election in 2011. This practice has been exposed and it has a stench about it. It has gone on for far too long. We are more than happy to highlight it. I commend the Greens for also highlighting it, although the Greens have said there should be a cap on donations of $10,000. That is much too high. A modest sum of $1,000 or $1,500, as the Leader of the Opposition said, is a more acceptable amount and would show that we are realistic about getting proper outcomes for New South Wales residents, not for the Australian Labor Party in New South Wales.

Mr STEVE WHAN (Monaro—Minister for Emergency Services, Minister for Small Business, and Minister for Rural Affairs) [8.58 p.m.]: I support the Election Funding and Disclosures Amendment (Property Developers Prohibition) Bill 2009. As a member in a marginal seat I know the importance of quality election

campaigns and informing people about what is happening in their electorate. I also have experienced on at least two occasions the impact of being massively outspent by the Coalition Federal Government at a time when it was happy to accept any donations and did so with great alacrity.

Election funding is a difficult issue and there have been some interesting contributions to this debate, but also some examples of rank hypocrisy from those opposite. I have made a number of comments in my local media about election funding, as has the Premier. I have said that what we should see is fundamental national reform of election funding. We should have consistent Australia-wide reform that eliminates the loopholes that make it possible to transfer donations interstate or between different levels of government and so on. That requires a national reform of electoral laws, which the Premier has said he supports.

Earlier today in this debate the Leader of the Opposition, and we just heard it again from the member for Hawkesbury—who I am surprised has the hide to show himself in here after his performance last week when one of my colleagues felt quite threatened by him—criticised the $10,000 amount and said that it was too high for a donation. Yet that was less than the amount that John Howard, the former Liberal Prime Minister, wanted the level of donations increased by, and there would not be a requirement to disclose who donated the money. Now we see this rank hypocrisy from the Opposition.

It must be made clear that the Premier has not reneged on anything at all. This Government was the first to raise the issue of donations reform in 2008 and, as many on this side of the House have pointed out, the Premier has consistently made it clear that the preference is for public funding with minimal donations. But that is a complicated process. It is not easy to eliminate loopholes from donations. When donations reform was first introduced—I believe by the Labor Party, and possibly the Wran Government, because the Liberals were not interested in it—the Liberal Party did things such as creating little funds that donated money across into the Liberal party, little third-party millennium clubs or support clubs, which would filter money through into them so they did not have to declare who donated the funds.

The Opposition talks a lot about this issue but when it has been in government it has done very little towards donation and electoral funding reform. It was the same situation when the Liberal Party was in power federally: all it wanted to do was increase the limit of anonymous donations.

Mr David Harris: And index it.

Mr STEVE WHAN: And it wanted to index it so that the limit would keep going up. Now we have the hypocrisy of Opposition members saying this is not good enough when they are, in fact, continuing to receive donations from the property sector. On Thursday 15 October the *Illawarra Mercury* reported that donations from the property sector to the Coalition totalled $206,883 in the first six months of the year. We see rank hypocrisy again from the Opposition. What we need in Australia is national reform of donation laws. I also support public funding of election campaigns.

The Premier has referred the whole issue off to a committee and has asked the Opposition to comment on the terms of reference. The Premier told us in question time today that the Opposition's response was one paragraph. The Opposition made no suggestions on how to improve the terms of reference; it was just one quick shoot-off. The Opposition is not interested in genuine reform; it is only interested in political pointscoring. I will highlight an example of the hypocrisy of the Opposition when it comes to the Monaro electorate. Not so long ago—about, coincidentally, the time just before the last—

Mr Andrew Fraser: Once upon a time.

Mr STEVE WHAN: Once upon a time—I thank the member for Coffs Harbour—just before the recent local government elections a taxpayer-funded leaflet went out to households in the Queanbeyan area, paid for by the allowances of a member of the upper House, which attacked development in the Queanbeyan region, particularly at a place called Tralee. Tralee is controversial and I put on the record that I have received donations from the developers of Tralee and Googong and that, contrary to popular belief from the Opposition, I have never been a consultant for that group.

This is a development in Queanbeyan that is supported by the local council, including the conservative members on the local council and the person who thinks he is going to be The Nationals candidate for the seat of Monaro. There will be a very interesting clash in that preselection. The development is supported very strongly

by the local community. It is interesting: I went to the last election strongly supporting the development and The Nationals went to the election opposing it. I increased my vote in Jerrabomberra—the area closest to this development, which stands to benefit from the community facilities—and The Nationals went backwards.

No-one in the region opposes this development except for Canberra airport, which, coincidentally, has donated directly to the Liberal Party and The Nationals, including The Nationals' campaign at the last election, and ran a $160,000 third party campaign targeting me and opposing me in the lead-up to the last election. This was declared to the Electoral Funding Authority only when they were forced to do so after a complaint. It is interesting that after that great donation to the Liberal and Nationals campaign, which was of great assistance to the campaign, a taxpayer-funded leaflet is distributed pushing the point of view that the donor has been putting out in the community. I have heard of cash for comment before but that is one of the more outrageous examples of cash for comment that I have ever seen, and it goes to demonstrate the utter hypocrisy of those opposite when they are talking about electoral reform.

Mr Andrew Constance: Your party approved the pamphlet and you know it—approved by the Labor Government.

Mr STEVE WHAN: The member for Bega is saying the Government approved the pamphlet. He should learn the way this place works. The Clerks of the House, not the Government, approve pamphlets and leaflets.

Mr Andrew Constance: Point of order: It relates to the relevance of this debate. The Minister should be addressing the bill, not casting aspersions on anyone.

ACTING-SPEAKER (Ms Diane Beamer): Order! There is no point of order. The debate has been wide ranging. The comments of the Minister for Emergency Services are in order.

Mr STEVE WHAN: I have listened to numerous Coalition speakers tonight who have besmirched reputations of people in this place, who have made outrageous comments, including the member for Hawkesbury. It is quite amazing that this naive member opposite, who does not understand the difference between executive government and the Parliament, raised such a ridiculous point of order.

As I was saying, this was a classic example of hypocrisy of Opposition members when it comes to electoral funding reform. They are interested in political pointscoring but not interested in real action. Another interesting example of conflict of interest from the Opposition is a front-page story in the *Queanbeyan Age* a week or so ago. An upper House member, Mr Mason-Cox—who was attacking the State Government office block in Queanbeyan, saying it was a waste of money and we should not have built it—failed to disclose—

Mr Andrew Constance: Point of order: My point of order relates to the relevance of this debate. The bill is very clear. The Minister is speaking outside the leave of the bill. I ask that you draw him back to the legislation.

ACTING-SPEAKER (Ms Diane Beamer): Order! The Minister is not talking outside the leave of the bill.

Mr Andrew Constance: He is talking about an office block in Queanbeyan, for goodness sake. How do you correlate that?

ACTING-SPEAKER (Ms Diane Beamer): Order! I do not uphold the member's point of order. He will resume his seat.

Mr Andrew Constance: How can you?

ACTING-SPEAKER (Ms Diane Beamer): Order! The Minister was talking about donations in relation to the building. The member for Bega will resume his seat.

Mr STEVE WHAN: It is amazing that someone who sat there and listened to the member for Hawkesbury earlier could even dream of taking a point of order on any question of relevance in this debate. It is hypocrisy in the extreme from the Opposition. As I was saying, this upper House member with his front-page

story failed to disclose that he was the owner of buildings in Queanbeyan and had lost rent because government tenants had moved to this new office block—a direct financial interest in this which he failed to disclose in that newspaper article.

Mr Andrew Constance: Point of order: Obviously, the standing orders of this House provide for any attack on anyone to be done by substantive motion, not in the midst of a debate. I do not know what the Queanbeyan office block is to do with election funding.

ACTING-SPEAKER (Ms Diane Beamer): Order! What is the member's point of order?

Mr Andrew Constance: I would like you to make an order under Standing Order 73 in relation to the personal attack in which the member opposite is engaged.

ACTING-SPEAKER (Ms Diane Beamer): Order! I remind members that they cannot attack other members or people outside this place except by way of substantive motion.

Mr STEVE WHAN: I am more than happy to comply with that ruling on the point of order from the member for Bega from now on so long as the Opposition fully complies with that ruling, and we will, of course, be watching. This is important reform. It is true that much more needs to be done, and this Government has shown a willingness to do it. All we have seen from the Opposition is ducking and weaving and political pointscoring. Let us see some genuine support for this measure and the ongoing work of the Joint Standing Committee on Electoral Matters. It will be interesting to see whether the Tony Abbott-led Federal Coalition is willing to support national changes to political donations arrangements. We will then see who is being hypocritical.

Mr ANDREW FRASER (Coffs Harbour) [9.10 p.m.]: The Opposition will not oppose the Election Funding and Disclosures Amendment (Property Developers Prohibition) Bill 2009, but it is too little too late. I ask members to consider the history of this Government, which has been in office for 14½ years. I came into this Parliament by way of a by-election in 1990. During that election campaign The Nationals were accused of being involved in North Coast land deals. However, the Independent Commission Against Corruption found nothing wrong with what had occurred. The allegations were purely brick and mud throwing by the Labor Party.

While members opposite have been in government we have read almost daily about the fundraising dinners that they organise in Sydney. I speak to developers—and if members opposite wish, I can name them—who say that they have been pressured into paying $10,000 a head to attend those events. I believe that a number of planning Ministers—including Craig Knowles, Frank Sartor and Kristina Keneally—have held these dinners and invited developers to attend to discuss projects and part 3A of the Environmental Planning and Assessment Act, and the projects have been approved. That is a fact.

A good example of that scenario is Hardies' developments in the lower Hunter at Catherine Hill Bay and the overturning of one of the decisions made by Minister Sartor and, as mentioned by the member for Hawkesbury, Minister Keneally's defence of them. Those decisions were way out of line. I drew the attention of the House to the fact that Hardies was trading off forests so that it could go ahead with its developments. The Minister used part 3A in such a way that the Land and Environment Court overturned his decisions. That happened because the good people of Gwandalan jumped up and down and said that they believed that rorts were going on, and I agreed with them. The people of New South Wales and Australia would benefit from an examination of Hardies' developments and proposed developments in the lower Hunter. It would be interesting to see just how much State land was involved in those deals. Where did Hardies get the land that it offered as an offset? It was provided by Eco Trades Pty Limited, which is wholly owned by Hardies. It is as rotten as a chop.

The Opposition supported the introduction of part 3A of the Environmental Planning and Assessment Act. I did so because I wanted the Pacific Highway upgrade completed without too many objections and blockages in the Land and Environment Court. I thought at the time that that Act would be used for altruistic purposes and to ensure public safety with developments such as the upgrade of the Pacific Highway and the provision of services across the board, such as electricity lines, telephone lines and so on. Unfortunately, Frank Sartor, Joe Tripodi and Eddie Obeid have used part 3A to raise funds for the Labor Party.

Mr Steve Whan: Point of order: Madam Acting-Speaker, I draw your attention to the well-considered ruling you made a few minutes ago while I was speaking in response to a point of order raised by the member for Bega suggesting that members should not attack other members of this place. I ask you to rule in the same way in relation to the Opposition.

ACTING-SPEAKER (Ms Diane Beamer): Order! If the member for Coffs Harbour wishes to make a substantive attack on a member he must do so by way of substantive motion.

Mr ANDREW FRASER: This is not a substantive attack; these issues have been canvassed in the media. In fact, the Supreme Court has ruled on Mr Sartor's part 3A approvals. One wonders how that happened. The Minister for Emergency Services really does not need to take childish points of order. He is a Minister of the Crown; he should go back to his office and have a cup of coffee.

Mr Steve Whan: I don't drink coffee.

Mr ANDREW FRASER: He should have a drink of water to cool down. This Government has been in office for 14½ years and it has so much cash in the bank that it is happy to ban developer donations now. I believe that the Australian Labor Party has enough cash to fund all future campaigns in Australia—not only in New South Wales, Queensland and Victoria—using only the interest earned from the Queensland branch's bank accounts. We all know what has happened in the past with regard to reform of political donations arrangements. As has been mentioned on more than one occasion this evening, the Labor Party promised, by way of a public handshake with Barry O'Farrell, to ban developer donations and to impose caps on spending. The Premier left the pub and spoke to his mates and they told him he could not do that because they needed the cash.

During the 2007 election campaign I spoke to the managers of the radio stations on the North Coast and they told me that they were incredibly cashed up because of the enormous amount of advertising slots that the Labor Party was booking. The radio stations had to tell the Labor Party that if it wanted them to run three advertisements during the morning news bulletins they would have to run at least one other advertisement. If they accepted the party's money, they would be running three advertisements in a row for the Labor Party. It did not do the party much good because nearly all Nationals candidates on the North Coast achieved more than 60 per cent of the two-party preferred vote. We won because the voters did not believe the rotten excuses offered by the Labor Party about donations and electoral reform.

Currawong and the unions have been mentioned already tonight. The sale of Currawong was approved, but because of public pressure Minister Keneally had to veto the $15 million sale. As the member for Pittwater said, we hope that that facility will be turned into a public reserve for everyone to use, not only union members. The member for Swansea told us earlier that union members like to support the Labor Party. I grew up in Newcastle and as a kid I worked in industry in the school holidays. John Halfpenny would be at the gate and would demand that we pay our union fees. I read the union rules and found that I could donate the money to a charity. I did that and gave him the receipt. No-one in the union ever asked me or any other member whether we wanted to donate part of our compulsory union fees to the Australian Labor Party.

Mr Steve Whan: What does that have to do with this bill?

Mr ANDREW FRASER: If we are going to be fair dinkum about electoral reform we must get rid of union donations to the Australian Labor Party. The Government should adopt the Coalition's policy, not make the minor amendment to the Act that this bill makes, and cap donations and expenditure. The Government should remove union influence. Unions have backed the Australian Labor Party day in and day out without ever seeking their members' approval. Members opposite should attend a Teachers Federation meeting in their electorate and ask the teachers whether they are happy that a large slab of their union fees—

Mr David Harris: Point of order: I have been patient as I have listened to the member for Coffs Harbour. However, the Teachers Federation is not affiliated with the Labor Party and it does not donate any money to the party.

ACTING-SPEAKER (Ms Diane Beamer): Order! That is not a point of order.

Mr ANDREW FRASER: That is a personal explanation.

ACTING-SPEAKER (Ms Diane Beamer): Order! I have ruled in favour of the member for Coffs Harbour.

Mr ANDREW FRASER: The Coalition wants to prevent unions donating to and running campaigns on behalf of the Labor Party. We should have an election system that prevents anyone being unfairly advantaged. This Government has been in office for 14½ years and has raised huge amounts of money from

dinners, donations and who knows what else. It is now only too happy to change the system. The other challenge is, as I think the member for Lake Macquarie said, to take away government advertising in the last six months prior to an election. I refer members to the drivel that poured out of the Labor Government prior to the last election. It claimed credit for everything—we got to the stage where we were waiting for it to claim credit for the tides coming in and going out, and for the sun rising each day and setting each night.

Mr David Harris: And it worked.

Mr ANDREW FRASER: As the member for Wyong says, it worked. That is the Labor philosophy: grab the money out of the developers and set yourself up with a bankroll; get the unions to continue that with funding back into the Labor Party and use government advertising—taxpayers' money that should be spent on infrastructure—to sing its own praises right up until the last two or three weeks prior to the election. There is only one way to fix this, and that is to cap all donations and cap expenditure—I have said that for many years. If you do that you have a level playing field. Everyone can book only so many ads, everyone can do only so much radio advertising, and candidates will then rely on the hard work of their supporters to pull them over the line.

It amazes me, in the dying weeks and the dark hours of this parliamentary year, that we will have two major pieces of legislation before us tonight. They are minor in what they are doing but they are major in the public's eyes. They will be sold as major changes, but we know that they are not. We are now debating the Election Funding and Disclosures Amendment (Property Developers Prohibition) Bill 2009 and the Parliamentary Electorates and Elections Amendment (Automatic Enrolment) Bill 2009 will be debated later this evening. Both bills need far more work. Both bills are window-dressing. The Government is trying to convince a disbelieving public that it is addressing the issues near and dear to their hearts.

I challenge all Government members to grab a cab and tell the driver they are a member of Parliament. However, I want them to tell the cab driver that they are a member of the Coalition, not the Labor Party. They will then hear what people are saying about the need to get rid of this rotten Government. As one of my colleagues said earlier this week, they have all bought their baseball bats, they are sitting in the corner waiting until 26 March 2011. The member for Maitland will cop it. You lot will be out on your ear. We will bring in our legislation and Labor members will be smarting for many years. We will introduce a level playing field.

Mr PETER BESSELING (Port Macquarie) [9.22 p.m.]: I wish to speak briefly to the Election Funding and Disclosures Amendment (Property Developers Prohibition) Bill 2009. A number of members have spoken more consistently about property developer donations. I think it is important that we look at the objects of the bill. The overview of the bill states:

> The Bill provides that:
>
> (a) it is unlawful for a person to make a political donation if the person is a property developer or makes the donation on behalf of a property developer, and
>
> (b) it is unlawful for a person to accept a political donation that was made by or on behalf of a property developer, and
>
> (c) it is unlawful for a property developer or person on behalf of a property developer to solicit another person to make a political donation.

All members would agree that public concern over developer donations, and political donations in general, does this Parliament, the politicians within it and our standing as members within the community a complete disservice. I appreciate that steps are being taken to try to address this. However, I have concerns that this bill is not going far enough to address these concerns. I want it noted on the record that I support the need for political donation reform, but I have concerns about how this bill will go about that task. I refer to the definition of "property developers". A number of sections within the bill define "property developers" and refer to close associates of corporations associated with property developers. It can be best summed up as confusing, technical and ultimately unworkable.

I am concerned that once this bill is passed—I am sure it will be passed—it may well be challenged in the courts. We have not heard the end of this and I imagine further amendments will be attached to it. Hopefully, that will give us another opportunity to go forward with donation reform, not only developer donation reform. As an Independent member I believe this puts an unfair burden on candidates to try to understand what is a "property developer" and an unfair burden on the watchdog, the Election Funding Authority, to try to determine what is a "property developer". Everyone who has been through a political campaign knows how crazy and wild those last few weeks leading up to the end of a campaign can be. No doubt, people who have no intention of trying to defraud the system or to do the wrong thing will be caught up in it nonetheless.

I also have issues over the singling out of developers. I believe in democracy, and if people want to participate in the democratic process and support a political party or individual they should be free to do so. We have seen many examples of legislation supported by both sides of the House that have been to the direct benefit of people who have donated to political parties. I do not believe that singling out a particular group within the community is of benefit to the broader community. It would be better to provide greater transparency—for the public to know who is donating, for the public to see how much they are donating and for the public to make a decision as to how they are going to vote.

We also need to remove the opportunities for parties to hide donations and expenditure. In the recent Port Macquarie by-election campaign a number of Independent candidates had to supply their expenditure and their donations so it was clear for everyone to see, but two political party candidates put in nil returns. It was not until the political parties put in the returns themselves—and luckily it was the only by-election contested by one particular political party, otherwise there would have been no transparent process—that we could see how much those political parties or candidates spent on that election. All other individuals' donations received and their expenditure were clear for the community to see.

Declarations should be made prior to the election. Similar to a media blackout, there should be a donation and expenditure blackout unless they have been declared prior. That would give everyone the opportunity to look at who is standing, what they are standing for, who is donating and what they have spent their money on. People can then make an informed decision and not have something come up after the election causing them to say, "I wish I had known that before I went to the polls." It is simply a matter of transparency and openness so everyone is treated on an equal footing and can be considered the same way.

An example of the approach by all sides of Parliament to reform, whether by design or otherwise, is the political donations inquiry by the Select Committee on Electoral and Political Party Funding in New South Wales. All members of the committee belonged to political parties. There was no representation by any Independent member. We are seeing the greater relevance of Independents within this Parliament and in the Federal Parliament as well. I am happy to support, as the Opposition has put forward, a cap on expenditure so long as it is equitable across all candidates. If you limit the donation, you limit the influence. That is the way we should be approaching political donations.

Political donations should be part of the political process but they should not control the political process—that should be up to the political candidates themselves—and they should be based on the electorates, not on political parties. That way all candidates have the same regulations and reporting procedures applying regardless of political party affiliation or otherwise, and everyone who goes to the polls knows exactly what those people stand for through their policies but also knows who is supporting them, how much money they have spent and on what. I will be supporting this bill, but I think we have a long way to go to get true political reform. That reform should include all political parties and all political candidates, particularly the Independents.

Mr VICTOR DOMINELLO (Ryde) [9.29 p.m.]: I wish to make a contribution on the Election Funding and Disclosures Amendment (Property Developers Prohibition) Bill 2009. At the outset it is important to note that for a law to be effective it must be clear and unambiguous. This bill fails at the first hurdle because the definition of "developer" is complex, imprecise and vague. One need refer to the definition of "developer" in the submission of the Independent Commission Against Corruption to the Select Committee on Electoral and Political Party Funding, which states:

> There are some problems in defining terms such as "developers" which would need to be resolved if banning of donations from that source is to be explored. One possibility would be to ban donations from entities whose regular course of business involves submitting rezoning proposals or development applications, whether directly or through agents (such as builders and architects).

The Premier acknowledged the difficulty with the definition of "developer" in his agreement in principle speech on 25 November 2009 when he stated:

> No single definition of "property developer" will ever be perfect …
>
> Inevitably, any definition of property developers and their close associates will involve some grey areas at the margins.

The Premier acknowledged that the definition is loose and there is difficulty in the legislating in relation to it. The bill is fundamentally flawed on that point. Nowhere in his agreement in principle speech does the Premier articulate the reason for the bill. I suggest the reason is that the public's perception of the State Labor Government is that there is a stench of corruption surrounding it. I need only quote from three articles I have

found in the past 12 or 13 months. The articles point to major difficulties facing the Government and the public's lack of confidence in it. The first article is from the *Sydney Morning Herald* of 8 October 2008 and relates to the well-known Wollongong scandal. It stated:

> ICAC Commissioner Jerrold Cripps QC said it was not uncommon to find cases where multiple layers of management in an organisation had failed to detect corrupt conduct.
>
> "But to establish actual corrupt conduct within five levels of a NSW public sector organisation, as has occurred with Wollongong City Council, is without precedent".

Most people throughout New South Wales have read that article, which is why they have no confidence in the New South Wales Labor Government. I refer to another article in the *Sydney Morning Herald* of 1 September 2009 by Linton Besser relating to the Catherine Hill Bay development. The article noted:

> The court found Mr Sartor prejudged Rose Group's application: "He seemed to be enamoured with the whole proposal of land bribe in exchange for rezoning and associated development; again, it is to be noted, before receiving and considering the Director-General's report.

When that appeared in the papers the public's confidence in the State Government further diminished. I shall quote from another article in the *Sydney Morning Herald* of 22 October 2009 relating to the Graham Richardson coffee shop dalliances, which stated:

> The Labor identity Graham Richardson has had coffee shop meetings with four planning officials and as many as 20 contacts with senior planning officials since Kristina Keneally became Planning Minister.
>
> The expanding influence of Mr Richardson since Ms Keneally took over in September last year was laid bare yesterday at the parliamentary inquiry into links between the property developers Ron and Roy Medich and planning officials over land at Badgerys Creek …
>
> One coffee meeting revealed yesterday that took place before Ms Keneally took over involved Mr Richardson, the developer Lang Walker and the planning department's consultant Norman Johnston. The committee was told that even though Mr Johnston was meeting Mr Richardson in his job with the department, the conversation spread to private business interests of a client Mr Johnston wanted served in Darwin …
>
> But this was just the start of an escalation of lobbying involving Mr Richardson. After only two meetings with the director-general of the Department of Planning, Sam Haddad, before Ms Keneally came to power, Mr Richardson began having serious contact with officials, it was revealed.

It is important to note that during the course of the inquiry it was established that neither Mr Richardson nor the planning department made notes or minutes in relation to the meetings. Mr Richardson had it all in his head. When the matters that formed the basis of these articles became public, there was nothing the State Labor Government could do to restore the public's confidence in this maladministration. Labor can change the Premier or Ministers or try to put this flawed legislation before them, but public confidence is destroyed. There is nothing the Government can do to fix it, other than to call an election, which is only 480 days away, and then let the people save this great State from this maladministration. In the agreement in principle speech the Premier continued:

> Devising a public funding model is not an easy task. It is important that any such model has the full support of all parties.

We all know that on 10 November 2009 Anna Bligh announced that the Queensland Government had already undertaken a public funding model. She announced that she would impose a $1,000 cap on donations and ban success fees as part of a package to reform campaign finance. We also know that similar legislation exists in New Zealand, so to suggest that it is not an easy task is ridiculous. It shows that the Government is broken and does not care. The bill is a stunt. It does not go far enough and everybody knows it. Finally, the Premier stated:

> … the era of big donations in New South Wales is rapidly coming to a close.

With the greatest respect to the Premier, it will only come to a close in 480 days when the Coalition will introduce legislation to limit caps on election spending, impose caps on donations, strengthen the powers of the Independent Commission Against Corruption and ban lobbyists' success fees. Only when the Government takes the public seriously and introduces proper reforms that go all the way—rather than piecemeal reforms so it can get an article published in a newspaper—will we start to see the beginning of the healing process of this great State.

Ms PRU GOWARD (Goulburn) [9.40 p.m.]: I will address some aspects of the Election Funding and Disclosures Amendment (Property Developers Prohibition) Bill 2009. The bill presents a wonderful

opportunity, because no member of this House is not conscious of the terrible stench that suggestions of corruption and bribery have cost all members of this place, the status of this Parliament and the regard in which it is held by the people of New South Wales, and indeed Australia. It is a Parliament with an unenviable reputation, and that largely draws from the linkages that are so often made between parliamentarians, and in particular this Government, and donations from property developers.

It is not just property developers who are able to make donations and who expect to gain some advantage from them. One can imagine that people who provide preferential services to governments and people who provide equipment under regional contractual arrangements may also want to donate to political parties, particularly those in government. At a Federal level, donations occur with regard to immigration quotas, and donations also occur with regard to the provision of banking licences. It is an inevitable part of government debt. So long as we have the election campaigns of infinite cost—you can always do with another advertisement; you can always do with another pamphlet; you can always do with another billboard—it is inevitable that, so long as election spending is uncapped, there will be seen to be the capacity to influence governments by the provision of donations in exchange for influence. No member of this House does not appreciate all too well that, as we move around our electorates, with whomever we deal and whoever we meet, that is a comment that is inevitably made.

There is a great opportunity for this Parliament to get it right, in a bipartisan way, because of this common concern to address this issue. But this bill is not the solution. As previous speakers in this debate have observed, the bill does not go anywhere near what is required to restore people's confidence in this Parliament, and particularly in the Government. The bill contains philosophical contradictions. Do we deny people the right to support the parties they believe in if they are of a particular complexion? Since when has development been an illegal activity? Why are we singling it out? The bill contains definitional issues that are of serious concern. As members have already observed, under the bill a candidate who is a property developer or builder is precluded from supporting their own campaign.

The bill raises a variety of philosophical questions as well as serious definitional issues that, as has already been observed, would probably only ever be resolved in a court of law. Then we will be back in this place trying to attach bandaids and squeezing in words here and there, trying to get the definitions a little tighter and a little more precise. In the process, it will be even more difficult to work out what we are doing. As we know, the real answer is to limit campaign spending. Indeed, there might even be models for providing funding for campaigning other than drawing them from direct donations. Because there is such strong bipartisanship, including from Independent members of the House, regarding the importance of reforming political donations, the importance of restoring the reputation of this Parliament, and the importance of restoring the confidence of the electorate in this Parliament and in parliaments in general—but this Parliament in particular—there is an opportunity for the Government to look at the bill again, and to come back with a much better bill that reflects the concerns of all members of this place.

Not one member has spoken against the bill, because no one can deny the importance of addressing the incredible collapse in public confidence in this parliamentary democracy. Given such widespread concern and bipartisan support for the reform of election funding and political donations, there is an opportunity to do it properly, but the bill is not the appropriate mechanism. The bill makes it more difficult, and indeed makes it impossible in some ways, to stop corrupt donations because it will be so difficult to trace them, and a determined developer can certainly do this. Of course, even other developers might choose to wear the fine, because that is cheap compared with the advantage they gain from overturning a part 3A decision, for example.

This is an opportunity that should not be missed. If the Government were serious about the issue it would seize the moment, take advantage of the fact that no member of this House has spoken against the bill, and that all members understand the importance of the issue at stake here—namely, public confidence in parliamentary democracy, particularly this democracy. This is an opportunity for the Government to acknowledge that the bill is flawed, that there is bipartisan support for reform of donations but that the bill is not the solution. The Government has the opportunity to take the bill away and come back with legislation that we can applaud, embrace and be proud of.

Mr DAVID HARRIS (Wyong—Parliamentary Secretary) [9.47 p.m.], in reply: I thank the Leader of the Opposition, the Leader of The Nationals and the members representing the electorates of Maitland, Port Stephens, Sydney, Manly, Swansea, Coogee, Pittwater, Lake Macquarie, Hawkesbury, Monaro, Coffs Harbour, Port Macquarie, Ryde and Goulburn for their contributions to the debate. I note with interest that we have debated the bill for almost four hours and at all stages Opposition members have said they support the bill but

the way they have spoken about it one wonders why. In particular, the member for Port Stephens labelled the bill as ridiculous but also said he supports it. Fundamentally Opposition members understand that the bill is important and that it should be supported.

It is time to end all speculation about the influence of donations on major developments in New South Wales. As the Premier has said, donations cast a shadow over the Government's good work and taint the decent public servants who run our planning system. It is just a shame the Opposition had to be dragged kicking and screaming to agree to a ban on donations from developers. The bill is the first step, and I am confident that it will go some way towards restoring the public's confidence in our first-rate planning system.

I will address some of the issues raised during the debate. The Opposition, through the Leader of the Opposition, claimed that the bill contains so many loopholes that a truck could be driven through them. The Opposition is again wrong in choosing to rely on the complaints of the property development industry and media reports to criticise the bill. It is important to point out that there is a difference between a loophole and drawing a line to ensure that legislation is both workable in practice and constitutionally valid. That is a key point. The bill contains a detailed definition of "property developer", which I will detail later, to provide legal and practical certainty and to minimise loopholes. Most of the criticisms aimed at the bill to date are based on a misreading of the definition of "property developer".

A property developer is not simply a company that makes a lot of planning applications. Any corporation engaged in the business, which regularly involves the making of relevant planning applications, for example, the business of property development, is a property developer for the purposes of the ban. Contrary to the view expressed by some stakeholders, the ban will cover companies that are new to the business of property development, even if they have not yet lodged a planning application, and shelf companies established by property developers to lodge planning applications in relation to a particular development. The bill also makes it unlawful for a property developer to solicit another person to make a political donation to minimise opportunities for avoidance. No definition of property developer will ever be perfect. Those who wish to circumvent the system will always find loopholes. That is why the Government is committed to introducing further reforms next year, which will put an end to corporate donations in New South Wales once and for all.

The member for Ryde expressed concern that the definition of "developer" was vague. On the contrary, the definition of "property developer" is extremely precise. A property developer is defined as a corporation engaged in a business that regularly involves the making of relevant planning applications by or on behalf of the corporation in connection with a residential or commercial development of land, with the ultimate purpose of the sale or lease of the land for profit. The term "property developer" also includes any close associate of a corporation described above. It is important to note that the definition of "property developer" is not limited to companies that regularly make planning applications.

Any corporation engaged in a business that regularly involves the making of relevant planning applications is caught. This means that any corporation engaged in the business of property development, being a business that regularly makes planning applications by or on behalf of that corporation, will be banned from making donations. The definitions in the bill have been carefully crafted to avoid encroaching on individual rights to freedom of political communication, while trying to ensure that the ban is meaningful and reasonably adapted to address the public's concern about developer donations. The Government has acknowledged that it is difficult to isolate a sector for the purpose of banning donations. That is why the Government will pursue broader reform that applies to all sectors before the next election. The bill is an interim measure to restore public confidence in the planning system and should be considered in that light.

The member for Port Macquarie spoke about uncertainty for developers. The Government acknowledges that, for some corporations, determining whether they are a property developer will be a difficult exercise. The bill aims to provide certainty for potential donors, candidates and political parties in this regard. It enables a person to seek a determination from the Election Funding Authority confirming that they are not a professional property developer for the purposes of the ban. All determinations made by the authority will be published on a register on its website. Anyone who gives false information to the Election Funding Authority in connection with a request for a determination will be guilty of an offence punishable by a maximum penalty of 200 penalty units or imprisonment for 12 months, or both. The simple answer to the concerns expressed by the member for Port Macquarie about developers being uncertain as to their status is: If in doubt, do not donate!

The Leader of the Opposition raised concern about the definition of "property developer" being limited to corporations that make a lot of planning applications. The definition of "property developer" is not limited to

companies that make a lot of planning applications. This suggestion is based on a misreading of the definition of "property developer". The definition includes any corporation engaged in a business that regularly involves the making of relevant planning applications, for example, the business of property development. It is important to clarify that the ban will cover companies that are new to the business of property development, even if they have not yet lodged a planning application; and shelf companies established by property developers to lodge planning applications in relation to a particular development. Many Opposition members raised the issue of shelf companies. I trust my comments have helped to clear up their concerns.

As to the question of whether shelf companies will be caught by the ban, the definition of "property developer" has been carefully drafted to ensure that all property developers are covered by the ban, including newly established corporations that have not yet made any planning applications but have been established for that purpose. It is simply wrong to suggest, as some critics have, that the bill will apply only to companies that lodge a lot of planning applications. In any event, it is absurd to suggest that a company would go so far as to change its corporate structure for the sole purpose of enabling a political donation to be made by the company.

Opposition members raised concerns about the definition of "close associate". Again they were wrong. On the one hand, critics have argued that the definition of "close associate" is too narrow because it does not extend to creditors and other entities who might benefit in some way from a planning application lodged by a property developer. The same critics have argued that the definition of "close associate" unreasonably violates the civil rights of those who will be subject to the ban. The legal advice received by the Government indicated that any ban on donations, which unduly impacts upon freedom of political communication, may be invalid under the Constitution.

That is why the definition of "close associate" extends only to persons who are directly associated with property developers, including a director or officer of the corporation or their spouse; a related body corporate of the corporation; a person whose voting power in the corporation or a related body corporate of the corporation is greater than 20 per cent or their spouse; if the corporation or related body corporate is a stapled entity in relation to a stapled security, the other stapled entity in relation to that stapled security; and if the corporation is a trustee, manager or responsible entity in relation to a trust, a person who holds more than 20 per cent of the units in the trust in the case of a unit trust, or is a beneficiary of the trust in the case of a discretionary trust.

It is important to note that section 147 of the Environmental Planning and Assessment Act 1979 requires planning applicants to disclose at the time their planning application is lodged all reportable political donations made by them or any person with a financial interest in the application, for example, the landowner. These disclosure rules, which were introduced by the Government in 2008, will ensure transparency in relation to donations made by entities who are not technically close associates but who have a financial interest in the development.

The member for Ryde suggested it was easy to come up with a public funding model, as Queensland has done. His claim is erroneous. It is blatantly untrue that the Queensland Government has formulated a public funding model. Premier Bligh has indicated her willingness to press ahead with donations reform if the Commonwealth has not acted by mid next year. Fundamental reform of election funding cannot be done on the back of an envelope. That is why the Premier has asked the Joint Standing Committee on Electoral Matters to pursue a detailed examination of public funding models, which will allow the Government to ban private donations. By enacting this legislation New South Wales is ahead of the Queensland Parliament and once again is leading the way on this important issue.

A few members made the point that some businesses are not technically property developers but regularly make planning applications in relation to the premises they use to run their ordinary business. The bill ensures that businesses that make planning applications from time to time in respect of properties from which they conduct their usual business are not covered by the ban. This means that supermarkets, restaurant owners and other retail businesses will not be affected by the ban. To make sure that this exemption does not present a loophole for actual property developers, the bill ensures that the exemption will not apply if the corporation's business involves the sale or lease of a substantial part of the premises. For example, a shopping centre developer will not avoid the ban simply by locating its commercial premises within a complex full of shops that it offers for sale or lease.

In response to questions asked by the member of Pittwater as to the motivation and/or lobbying by the Government in relation to the exclusion for retail outfits, I note information relating to lobbying of government

representatives is freely available on the website of the Department of Premier and Cabinet. It is a shame lobbying of Opposition members is not equally available, given that the Leader of the Opposition has so far repeatedly refused to adhere to the lobbyist code of conduct. Clearly the Opposition has been extensively lobbied by the property development industry, given its attacks on this bill. It is clear that lobbying by the big end of town influences the Opposition.

I refer next to homeowners and to people renovating investment properties. Contrary to the erroneous statements made by the member for Pittwater, the ban on donations does not apply to individual homeowners or to individuals renovating investment properties. The Government does not believe that ordinary citizens should be deprived of their right to make a political donation simply because at some stage they required development approval in relation to their home or another property owned by them. The intention of the Government is to stop contributions from professional property developers, which is what this bill will do.

The member for Pittwater referred also to the inclusion of "spouses" in the definition of "close associate". Let me clarify the issue. A close associate of a corporation involved in property development is defined to include a director or officer of the corporation or his or her spouse, and a person or his or her spouse whose voting power in the corporation or related body corporate is greater than 20 per cent. "Spouse" includes both men and women. They have been included in the definition of "close associate" simply because it is likely that a financial or other gain made by one spouse will directly benefit the other.

In this context, a political donation made by the spouse of a director of a company engaged in property development has the potential to taint any planning decision made in relation to that company, just as it would if the director had made the donation himself or herself. The member for Pittwater insinuated that the Government approved all development applications under part 3A. The member for Pittwater could make much the same claims about development applications that go to local government. The 2007-08 local performance monitoring report of the Department of Planning covers only local developments. On page 46 the report states:

> For DAs determined by local government—
>
> 97% of DAs were approved
> 3% of DAs were refused
>
> The same figure applied for 2006-07.

The member for Pittwater should check his facts. By the time local and State governments have worked through these development application issues hopefully they will all be resolved. As the Premier stated, the Government's public position on national reform has not changed—an issue referred to in debate by a number of speakers. The Government has consistently called for limits on political donations and greater public funding of election campaigns. It is clear from the Twomey report that if New South Wales were to ban donations outright without some form of public funding, which is the path that we are investigating, most likely it would be invalid under the Constitution.

A coordinated national approach is still the best way of ensuring the constitutional validity, and above all the practical effectiveness, of any laws that ban or cap donations. The Government continues to support a national approach. The Commonwealth Government's electoral reform green paper presents all jurisdictions with an opportunity to achieve national reform of political funding. The Government recognises, however, that consistent national reform in this area will take time. In the interim, New South Wales will continue to strengthen its rules governing political donations and expenditure. The proposed ban on developer donations is the first step. As I said earlier, it is an interim measure designed to address the immediate concerns of the public about the role of major donations in the planning system.

The Government will refer the issue of a public funding model to the Joint Standing Committee on Electoral Matters for inquiry and report by March 2010, with a view to introducing further bans and caps on private donations before the next election. I was asked earlier whether the Government consulted the Independent Commission Against Corruption [ICAC]. In drafting the bill and, in particular, the definition of "property developer", the Government closely considered the ICAC's recent submission to the Select Committee on Electoral and Political Party Funding, in which it discussed banning at the local government level political donations from property developers. I note that the ICAC did not make any specific recommendations in this regard.

The issue of developer donations is not about actual corruption; it is about fixing the perception of undue influence created by the making of donations by persons who have planning applications before

government decision-makers. The ICAC has confirmed that it intends to consider issues relevant to political donations and disclosures in the coming months and that it would not be appropriate for it to express views on these issues until its examination is complete. The Government acknowledges that no ban on one category of donors will be perfect or free from loopholes.

This bill carefully balances the need to limit loopholes through strict and clear definitions with the need to ensure that an individual's right to freedom of political communication is not unduly compromised. Importantly, it makes clear that homeowners and individuals renovating homes will not be caught by the ban, nor will businesses that simply make planning applications in respect of the premises that they use to run their businesses. Ultimately, the prohibition on developer donations will be subsumed into broader reforms to the State's political funding laws announced by the Premier on 14 November. 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.

INDUSTRIAL RELATIONS (COMMONWEALTH POWERS) BILL 2009

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

RURAL LANDS PROTECTION AMENDMENT BILL 2009

Bill received from the Legislative Council and introduced.

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

PARLIAMENTARY ELECTORATES AND ELECTIONS AMENDMENT (AUTOMATIC ENROLMENT) BILL 2009

Agreement in Principle

Mr BARRY COLLIER (Miranda—Parliamentary Secretary) [10.06 p.m.], on behalf of Ms Carmel Tebbutt: I move:

That this bill be now agreed to in principle.

This bill was introduced in the other place on 12 November 2009 and is in the same form. The second reading speech appears at pages 72 to 75 in the *Hansard* galley for that day. I commend the bill to the House.

Mr CHRIS HARTCHER (Terrigal) [10.07 p.m.]: The aim of the Parliamentary Electorates and Elections Amendment (Automatic Enrolment) Bill 2009 is to implement a new automatic smart enrolment system for State and local government elections. The legislation will also allow a person eligible to enrol in an election to vote in that election provisionally upon production of authorised identification. It will also allow electors to apply for a postal vote online and will allow for the operation of pre-poll stations outside the State. The bill makes other miscellaneous amendments to the Electoral Act with the aim of improving the conduct of State elections. In 2006 the Joint Standing Committee on Electoral Matters released a report with 13 recommendations, one of which was a suggestion that a smart enrolment system be introduced in New South Wales. This bill is the result of the Government's acceptance of that recommendation.

The Federal Government, which is moving also towards automatic or smart enrolment, issued its own report in September this year calling for an ongoing discussion of automatic enrolment options. The bill provides for a system that will marry the electoral roll with a range of electronic databases held by State government departments and authorities. This will allow the transfer of data from those records to the electoral

roll to highlight anomalies and to assist in the maintenance of the electoral roll. The automatic provisions are designed to allow the commission to maintain more up-to-date electoral records and, in theory, should allow for an easier, quicker and more automated enrolment. As such, the penalty for not enrolling in the new easier-to-enrol system has been increased from $55 to $110.

I have concerns about the prospect of fining people for not enrolling in a system that is considered to be a work in progress. This Government has a track record of failure when it comes to large-scale information technology projects and it would probably be a better approach to get right an easier-to-use system before it goes ahead and imposes additional fines. I am sure that many members would be unimpressed with a system that did not work properly, fining more people simply because they could not use an unworkable system.

It would not be beyond this Government to delay the automatic enrolment system because of increased fines but to implement the increased fines immediately. Perhaps the Government should consider providing its promised better service before increasing the costs relative to that service. But that approach would be foreign to a Government generally disinterested in providing better services. An even more serious concern is a Government that is seemingly incapable of completing a major information technology project but is now working on a project to share the personal and private information of New South Wales citizens between departments. Civil liberties groups and other interested groups have expressed concern about the privacy aspects of this legislation.

The people of New South Wales need an assurance that any project that deals with this volume of personal information will be subject to more rigorous privacy controls. While we do not disagree with the benefit of an automatic enrolment system, we are concerned about the cost of providing information security. When governments fail as often as this one has, people are entitled to be concerned about basic matters. This project goes far and beyond basic matters. People are worried about their privacy. In an era of identity theft—and I note that the House will be debating legislation on identity theft—they need to be assured that this Government will not try to cut corners and see security protocols dropped in favour of perceived efficiency.

The Government has to give an assurance that this project will not end up on the scrapheap half finished, like so many other New South Wales Government information technology projects—a result that could have dangerous consequences for data security. The State Electoral Office has advised that it has calculated that potentially only 56 per cent of 17- to 21-year-olds in New South Wales are enrolled. That is on page 1 of the report made by the Electoral Commissioner, Mr Barry, in his submission to the Joint Standing Committee on Electoral Matters dated 20 July 2006. Variations of smart enrolment systems are utilised in other countries, including New Zealand and Canada. The introduction of a smart enrolment system in New South Wales has very much been the brainchild of the New South Wales Electoral Commissioner, Mr Colin Barry. I understand that Mr Barry is happy with the legislation that has been presented to the House by the Government, and has been closely involved in its inception.

Given that Australia has compulsory voting, it is arguable that eligible people should be automatically enrolled without having to go through a bureaucratic process to obtain that enrolment. While initially people who wish to register to vote on the day might inundate some polling booths, we are advised by the New South Wales Electoral Commissioner that he is prepared for this and will put on additional staff where needed to pre-empt this response. I do not know how he will determine which areas will be more inundated than others. The installation of automatic enrolment will mean that in time fewer people will be required to register to vote on the date of polling. Concerns about people taking advantage of provisional voting are relatively unfounded, given the need to produce photo identification. This is one of the highest burdens of proof available. The ability to apply for a postal vote online will benefit people in rural and regional areas, in particular the Murray-Darling and Barwon electorates. Mr Barry has indicated that he is looking to recognise the Murray-Darling and Barwon electorates as remote districts. The whole electorate must be recognised, not just an individual town.

The Government has seen fit to refer members to the second reading speech delivered in the other place. I commend to the House the speeches given on behalf of the Opposition by the Hon. Don Harwin and the Hon. Jennifer Gardiner, both of whom made thoughtful and detailed contributions. The Hon. Don Harwin and the Hon. Jennifer Gardiner are members of the Joint Standing Committee on Electoral Matters. The Hon. Don Harwin was the Deputy Chair of the Select Committee on Electoral and Political Party Funding and the Hon. Jennifer Gardiner has extensive experience in electoral matters, having been General Secretary of the National Party of New South Wales.

Accordingly, the New South Wales Coalition does not oppose this legislation. The New South Wales Coalition believes the Government should ensure that the legislation is effective by making sufficient resources

available to the Electoral Commissioner to ensure that, particularly on polling day, there are sufficient polling staff and sufficient information technology equipment available to process the number of people who may turn up on that day. The New South Wales Coalition has always believed that compulsory voting is a mainstay of the democratic system in New South Wales. It legitimises government, it ensures that all people participate in the democratic process, and it ensures that the people have a direct involvement in the democratic process, unlike in other countries. Even in the well-known election of the President of the United State of America, only 50 per cent of people turn out to vote. New South Wales, together with the rest of Australia, has voter participation of more than 90 per cent, and up to 95 per cent in some elections. That is a great tribute to the strength of Australian democracy.

Mr ROBERT FUROLO (Lakemba) [10.15 p.m.]: Labor governments have a proud tradition of electoral reform that is designed to improve the integrity and transparency of, and engagement in, the political process. Former Premier Wran was a leader in electoral reform and introduced various bills in this area, including democratic elections for the Legislative Council. For more than 150 years the people of New South Wales did not have a say in the members of the Legislative Council. Under reforms introduced by the Labor Government, that was changed. There were also reforms of electoral redistributions to depoliticise the process and end the gerrymander that occurred. Importantly, the election funding bill constituting the Election Funding Authority and the public funding of parliamentary elections, amongst others, are Labor Party initiatives. The House has been discussing the developer donations reforms, another initiative of the Labor Party in reforming the electoral system. It is not surprising that the Parliamentary Electorates and Elections Amendment (Automatic Enrolment) Bill 2009 continues this proud tradition.

I am pleased to speak in support of these amendments, which will greatly enhance voting opportunities for people in New South Wales. Voter enrolment and participation in the electoral process are important issues that go to the heart of our electoral system. Australia is one of the few countries in which enrolment and voting are compulsory. Compulsory enrolment and voting enhances equality. It encourages governments to take into account all groups in society when forming their policies. Our system of compulsory enrolment and voting is being undermined by the fact that nearly 10 per cent of eligible New South Wales voters, or roughly 400,000 people, are not on the roll. That is a tragedy. We should provide people with every opportunity and encouragement to vote. More than 400,000 people are disenfranchised.

The rate of electoral participation is even lower among young people. The bill seeks to address this pressing issue through the introduction of an automatic enrolment system, which makes use of information held by other government agencies to enrol voters and to update the details of those who are already enrolled. This is already done in a number of other progressive democracies, including Canada. In Australia, New South Wales is leading the way. It means that many New South Wales voters will no longer have to fill out an enrolment form to vote in State elections every time they move house or change their details. I am sure many members have been standing at the polling booths on election day when people turn up to vote only to realise that they are no longer enrolled in that electorate. They have not updated their details. They feel that their right to have a say in the election has been denied.

Young people approaching voting age also will be automatically added to the New South Wales roll if the Electoral Commission is satisfied that they are entitled to vote. The Government's bill ensures that the Electoral Commissioner must contact electors directly before any changes are made to the roll. For example, if a person has advised Sydney Water of a change of address, Sydney Water will be required to provide that information to the New South Wales Electoral Commission. The commission will contact the elector via SMS, email or letter to inform the elector that the commission proposes to update their address, unless the elector provides the commission with reasons as to why this should not occur. Eligible persons who are approaching voting age similarly will be advised via SMS, email or letter of the commission's intention to enrol them as electors for New South Wales elections. This particular reform is significant as it gives young people approaching voting age the chance to be a part of the electoral system without having to enrol to vote.

These people will be directed to a special website containing information for young people who will vote for the first time. It must be emphasised that the New South Wales Electoral Commission already has the power to collect and use personal information held by New South Wales government agencies for the purposes of checking the accuracy of the electoral roll. The bill simply enables the Electoral Commissioner to use that information to directly update the roll. The bill clarifies the Electoral Commissioner's powers to collect information from New South Wales government agencies and requires local councils, universities and utilities such as Sydney Water to provide information to the Electoral Commissioner for enrolment purposes.

The bill creates a new offence of misuse of personal information acquired under the Act, subject to a maximum penalty of 50 penalty units—currently $5,500. It is hoped that this part of the Act will give some confidence to those concerned about the privacy implications of these changes. The bill acknowledges that automatic enrolment will have implications for the joint roll arrangement between the Commonwealth and New South Wales. The current joint roll arrangement is premised on the notion of joint electoral rolls and a joint enrolment procedure. Automatic enrolment in New South Wales will depart from the notion of joint electoral rolls as the New South Wales Electoral Commissioner will be responsible for preparing a roll for each New South Wales election using enrolment data supplied by the Commonwealth and data held by New South Wales government agencies such as the Roads and Traffic Authority.

Accordingly, the bill contains new joint roll arrangement provisions to enable the Governor and the Governor-General to make arrangements for the exchange of enrolment information, rather than joint electoral rolls. A new arrangement based on the exchange of enrolment information must be negotiated before automatic enrolment can be implemented in New South Wales. It is anticipated that the new arrangements will be modelled on those entered into by the Commonwealth and Victoria in 2004. The New South Wales Electoral Commissioner supports the bill and has been consulted extensively on its contents. The Commonwealth Government is also considering automatic enrolment as part of its Electoral Reform Green Paper process. In my capacity as Chair of the Joint Standing Committee on Electoral Matters I am pleased to support the legislation. I acknowledge the work of the commission and the previous chair of the committee, the member for Kogarah, and the work that has been done to date. I commend the bill to the House.

Mr CRAIG BAUMANN (Port Stephens) [10.21 p.m.]: I shall make a brief contribution to the Parliamentary Electorates and Elections Amendment (Automatic Enrolment) Bill 2009. The bill has finally been introduced more than three years after the Joint Standing Committee on Electoral Matters recommended the Government investigate the feasibility of, and requirements for, a smart enrolment system. The Liberal-Nationals do not oppose this bill because we believe it better reflects the democratic system in place in New South Wales. It seems odd that voting is compulsory but enrolment is not. I note that only 56 per cent of 17- to 21-year-olds in New South Wales are enrolled. I believe this bill goes part way to addressing that inconsistency.

The bill will allow for enrolment for provisional voting on the day of polling, provided adequate identification is produced. However, one must ask: Why is everyone not required to produce identification when voting? Could it be because people no longer would be able to vote illegally under someone else's name? Could it be that individuals no longer would be able to cast multiple votes at different polling booths? As I represent the electorate of Port Stephens with a majority margin of 68 votes I am probably more sensitive to those individuals who vote early and often and are detected only by tallying the roll when the booths have shut, which really is a case of closing the gate after the horse has bolted. Of course, these fraudulent voters do not use their own name and no-one knows how they cast those fraudulent votes.

I would have thought that the risk of a successful appeal in the Court of Disputed Returns by an unsuccessful candidate in a close result such as that in Port Stephens in 2007 would encourage any competent government to correct the obvious flaws enabling fraudulent multiple votes. One would think that the cost and inconvenience of another ballot would encourage any competent government to close this loophole. I recall that in the 1991 election the Maitland electorate determined which party would govern this State. The polling results were close and any detection of fraudulent behaviour could have stopped the result until a subsequent court-ordered ballot.

I am pleased that local councils will not be required to contribute to the cost of managing this bill. I hope this element of the legislation is guaranteed. This State Government is notorious for cost shifting to councils. I have spoken many times about this issue in the House because far too many bills introduced by the other side simply shift cost and responsibility to local councils, without any compensation or additional financial support or resources. A report by the New South Wales Local Government and Shires Associations released earlier this year examined the impact of cost shifting to councils during the 2007-08 financial year. The report found cost shifting was estimated to have increased significantly from $380 million in 2005-06 and $412 million in 2006-07 to $431 million in 2007-08.

One of the most appalling cost-shifting exercises by this Labor Government relates to election costs. A recent parliamentary inquiry heard that Port Stephens Council paid nearly $310,000 compared with just $150,000 four years earlier. So, again, I hope this element of the legislation is here to stay. On this side of the House we respect democracy and support any measures to encourage constituents to exercise their democratic

rights. The Labor Government's "Only Vote 1" campaign in 2007 was an obvious perversion of the electoral process, planned to dupe voters under this Labor Government's win-at-any-cost mentality. So, whilst we do not oppose this bill, I am curious to see what tricks this Labor Government will use in conjunction with this legislation to obtain an electoral advantage in 2011 and put the people of New South Wales through another four years of self-centred, incompetent Labor rule.

Mr PETER DRAPER (Tamworth) [10.26 p.m.]: I support the Parliamentary Elections and Electorates Amendment (Automatic Enrolment) Bill 2009 because it means that the electoral system finally is catching up with and utilising modem technology, which is appropriate as we move further into the twenty-first century. The primary purpose of an electoral roll is to allow eligible voters to exercise their democratic right to choose a representative. This purpose is frustrated should enrolment processes become a barrier that excludes people from this right. We need systems that encourage and assist in delivering high-level participation in the electoral process by all eligible voters in New South Wales. It is disappointing that only about 91 per cent of eligible voters are enrolled to vote. This means that more than 400,000 people are missing out on voting.

More disturbing is that research undertaken by the New South Wales Electoral Commission shows that only about half of the approximately 67,000 17- to 18-year-olds registered with the Board of Studies will enrol to vote. Anecdotal evidence suggests that if these people are not enrolled at 18 years of age many may never vote in the future. Information from State agencies such as the Roads and Traffic Authority already is used by the Australian Electoral Commission to check the accuracy of the rolls. Based on this information the Australian Electoral Commission can put in place a process to remove a person from the roll when that individual has changed address, thereby making that individual no longer entitled to be enrolled under the old address.

The Australian Electoral Commission and its New South Wales equivalent collect vast amounts of information from various government bodies including the Roads and Traffic Authority about people who change their address. This information already is being used to make the electoral roll more accurate by enabling the authority to check that those on the roll are enrolled at the correct address. Sadly, it appears this information has been successful in removing electors from the roll rather than enrolling them at their new address. With all of this information, the process still has failed to get new citizens and 18-year-olds on the roll in the first place. The proposed changes in this bill will allow the technology already at our disposal to better address these issues, and thus have positive rather than negative effects.

The Australian Electoral Commission cannot enrol any person at their new address, even though it may have information about a person's change of address. Unless that person actually takes the time to fill out a paper declaration they are removed from the roll. Every year approximately 2 per cent of enrolled voters are removed from the roll because of this anomaly. Ultimately, this affects the accuracy of the electoral roll. Most of us would have experienced attending a polling booth and hearing a frustrated constituent trying to convince the attendant that they should be on the roll. As I said, the authorities seem to be good at taking people off the roll but not very good at keeping them on it.

The Parliamentary Elections and Electorates Amendment (Automatic Enrolment) Bill 2009 contains some commendable measures, in particular new provisions to enable pre-poll voters to cast an ordinary vote as opposed to a declaration vote if they vote at a pre-poll office in the district in which they are enrolled. The amendments also allow persons with a New South Wales driver's licence or New South Wales Photo Card to enrol and vote or update their details and vote on polling day. There is also merit in the amendments to centralize processing of postal ballot applications and provide for the online lodgement of such applications. The bill is a step in the right direction towards making it an easier process for people to vote. It is everybody's democratic right to vote, therefore full participation in the electoral process should be encouraged. Making the system as simple as possible by amending the current enrolment system should help to deliver the key principle of universality while ensuring a more representative electoral roll and increasing participation. I commend the bill to the House.

Mr VICTOR DOMINELLO (Ryde) [10.29 p.m.]: I wish to make a very brief contribution to debate on the Parliamentary Electorates and Elections Amendment (Automatic Enrolment) Bill 2009. In particular, I address section 106 (2A) (a) (ii), which specifies that if, at a polling place in a district at any election, a person, who is not enrolled for any district, claims to be entitled to enrol for the district the person is to be permitted to vote if the person provides to an election official as proof of identity a driver's licence or a Photo Card. The subsection goes on to note that if a person cannot produce a driver's licence or a Photo Card the person will not be permitted to vote under the subsection. The bill creates a precedent whereby people are required in certain

circumstances noted in the bill to produce photo identification before being entitled to vote. On this side of the House we support compulsory attendance at voting because it is important to our system of democracy. I believe that the importance of voting and how it is perceived in the community should be elevated.

Currently, during elections, and particularly during close elections, I hear complaints from both sides of politics and from people in the community not associated with politics that the system is flawed or it is rigged as a whole lot of dead people voted. Whether that is true or not, it is a perception. That perception can be quickly eliminated by insisting that when people go to vote—on one occasion every four years in relation to State elections—they are required to bring photo identification. That would restore confidence in the system. It is my personal view that although the provision is now in the bill we should go further. For too long I have had serious concerns in relation to the integrity of the voting system.

Mr ANDREW FRASER (Coffs Harbour) [10.33 p.m.]: I support the Parliamentary Electorates and Elections Amendment (Automatic Enrolment) Bill 2009, and in doing so I relate to the House an old saying: Bad governments are elected by good citizens who do not vote. In the case of the Labor Party I would suggest that at times bad governments are elected by either good citizens who vote too often or by the cemetery vote—citizens who do not exist. We are missing an opportunity to have a full overhaul of the enrolment and voting system.

I put before the House a piece of legislation in 1995 called the Parliamentary Electorates and Elections Amendment (Voter Identification) Bill and in 2000 the Parliamentary Electorates and Elections Amendment (Enrolment and Voting) Bill. Both those pieces of legislation provided for a range of identification documents—from A to Q—from a birth certificate to a current pensioner health card through to a notice under the Valuation of Land Act, and included a proof of age card and the documents mentioned in this legislation. As the member for Ryde also said, I believe that to ensure the system is not being rorted every voter who goes to vote should be required to produce identification.

I have books and books and books and files and files and files of information relating to the inaccuracy of the rolls and the fraudulent activities that were detailed by Frank Hardy in his famous poem. I give credit to Dr Amy McGrath, who has been a staunch voter-fraud opponent for many years, and yet with all the information she has put forward over the years—and I think she has written four or five books on it, and Frank was her husband—no-one in this Government has picked up the opportunity to carry out an overhaul of the system. I propose that the rolls are cleansed totally and that everyone is re-enrolled under the statutes already in existence. Further, I propose that everyone who is re-enrolled is sent a voter identification card so that when an election is called every person who has a legitimate opportunity to claim a vote has a voter identification card that has been forwarded to them at their home address that they can present to a polling official. If they lose the card they would then be able to present the identification items I have mentioned. To save time I will not go through them all.

There is an opportunity to do something about this. I believe this bill is a step in the right direction. However, I have concerns about a few matters, and I ask the Parliamentary Secretary to address one concern in particular, which I will come to in a moment. If we can have an electronic voting system for the people in Antarctica, why can we not have one for people within the Western Division. I note that under the legislation in the Western Division mobile booths will go around isolated areas because in the past the postal voting system has failed and quite often the votes from isolated areas have not been counted due to delays by Australia Post. Some of those areas may have a mail delivery only once a fortnight. But these days, with broadband and other forms of electronic communication available, the Government should have considered utilising those technologies, especially within small towns in the Western Division and similar regions.

I also welcome the fact that in nursing homes and other declared institutions voting will be extended over a week and will not be just on a designated day. But I remind the Government that all parties need to be notified so that the relevant scrutineers can go around with the electoral officials to ensure that the votes are cast correctly and that they are not unduly pressured by anyone of any political persuasion to cast their vote against their will. There are some positives aspects to this bill, but I do not believe the Government has gone far enough. I could spend 15 or 20 minutes going through some of my old speeches but I will not. However, one thing that does concern me is section 104A, which states:

> Insert after section 104:
>
> **104A Ballot papers may be photocopied, written or otherwise reproduced**
>
> (1) If a polling place does not have or runs out of ballot papers printed in accordance with section 83 or 83B, the returning officer, polling place manager or other election official in charge at the time may have the ballot paper reproduced (including by photocopying or by copies obtained by use of facsimile or email).
>
> (2) A ballot paper so reproduced is still required to be in order to the effect of the form prescribed in Schedule 4 or 4A …

For the past 30 years I have scrutineered in elections, and two elections spring to mind. Unfortunately, I cannot think of the name of the acting Electoral Commissioner at the time, and he has now passed away. Both elections were in 1999: one was in Grafton when the National Party candidate was Steve Cansdell, who is now a member of the Legislative Assembly. If my memory serves me correctly, we lost that election by 143 votes. What amazed me about that election was that there were large bundles of ballot papers that had not been initialled by any polling official. When I challenged those votes, the Electoral Commissioner, who had travelled to Grafton, accepted those votes. It was a very tight contest. In reality, the votes did not meet the requirements of the Act. They had not been initialled by an electoral officer but they were issued.

Later I went to Dubbo and scrutineered during the same election. A bag of votes disappeared, although I note the bill provides for bags of votes to be locked up overnight. However, on that occasion, a bag of votes disappeared from Wellington and no-one could find it. I raised with the acting Electoral Commissioner who had travelled to Dubbo to oversee the recount the matter of votes that had been brought in from Wellington but had disappeared, and the fact that the bag had been tampered with. He was prepared to accept that the bag of votes had arrived. In that bag of votes were yet again a large number of ballot papers that I believe had not been issued by a polling official on the day of the election. None of the votes had been initialled on the back. Yet again the votes were allowed by the acting Electoral Commissioner. We lost that election to the Independent, the late Tony McGrane, by 14 votes.

Legislation that provides for a polling official or someone at a polling place to reproduce ballot papers and issue them is fraught with danger. Irrespective of the side of politics one is on, a system that authorises someone to photocopy ballot papers cannot be trusted. Before the next State election occurs, we will have had a Federal election, and we will have a good idea of the number of ballots that will be cast at any booth during an election. I suggest that the Electoral Commissioner should make available, for example, 1,000 additional numbered ballot papers that could be kept safe and controlled by a polling official, to meet all requirements. However, a legislative provision that allows a polling official to reproduce a ballot paper begs a number of questions: Will the ballot papers be reproduced after the votes have been cast? Will they be photocopied and added to the votes? Will they be valid votes?

To my mind, based on my experience in 1999 and during other elections, including Federal elections, that provision stinks. When I protested to returning officers in the past, votes were disallowed in some cases because they were not initialled by a polling official prior to being distributed to voters. We received rulings in our favour in relation to individual votes, but during those two vital polls in Dubbo and Clarence, there were dozens and dozens if not hundreds of votes that were not properly issued, and those votes appeared to favour the Independent and the Labor Party in Dubbo and the Labor Party candidate in Clarence.

I have grave concerns in relation to proposed section 104A. I request an explanation from the Parliamentary Secretary of the inclusion of that provision when it is so inexpensive and so easy to have, in addition to the number of votes we know will be required as a result of a Federal election, an extra 500 or 1,000 ballot papers printed before the election and made available at each booth. That is a very simple solution. Having said that, I commend the legislation. It is a step in the right direction, but I would really like to see a complete overhaul of New South Wales parliamentary elections legislation along the lines of legislation I introduced in 1995 and 2000.

Mr BARRY COLLIER (Miranda—Parliamentary Secretary) [10.43 p.m.], in reply: I thank the member for Terrigal, the member for Lakemba, the member for Port Stephens, the member for Tamworth, the member for Ryde, and the member for Coffs Harbour for their contributions to the debate. I note that the Opposition supports the bill. I take this opportunity to again thank the New South Wales Electoral Commissioner and his staff for their contribution to formulation of this legislation.

The modernisation of our enrolment processes is long overdue. The bill takes up the recommendations of the New South Wales and Commonwealth Joint Standing Committees on Electoral Matters. Electoral authorities already obtain elector information from government agencies with which to check the accuracy of the roll. The bill simply enables that information to be used in new ways to assist people to comply with their legal obligation to be enrolled. The bill has a range of new measures, including increased penalties for the misuse of elector information, to protect the privacy of electors. The provisions are fair and balanced in the light of every citizen's legal obligation to be enrolled and to vote. The bill strikes the right balance between the need to maintain the integrity of the roll and the necessity of removing unnecessary barriers to enrolment and voting.

The member for Terrigal expressed concern about fining people as a result of the Smart Roll system. This amending bill will ensure that fewer people are fined as a result of failing to enrol. It will assist people to

comply with their legal obligation to be enrolled. The member for Terrigal also expressed concern about the integrity of the technology supporting the Smart Roll system. The Electoral Commissioner has assured the Government that the commission has the funds and all the other resources it needs to implement the system before the next election. The member for Terrigal commented that this will be yet another "failed IT project", and I find that rather offensive. On behalf of the New South Wales Electoral Commissioner and his staff, who are working very hard to deliver the Smart Roll project, I suggest the member for Terrigal should bear in mind how much work is involved in the project before describing their work as a "failed IT project".

The member for Terrigal also expressed concern about privacy. For the purpose of maintaining the electoral roll, the New South Wales Electoral Commission already has power to collect and use personal information that is held by New South Wales government agencies. The bill simply enables the Electoral Commissioner to use that information to directly update the roll. The bill clarifies the Electoral Commissioner's powers to collect information from New South Wales government agencies and ensures that local councils, universities and utilities, such as Sydney Water, also are required to provide information to the Electoral Commissioner for enrolment purposes. The bill will ensure that such information is subject to greater protection by creating a new offence for the misuse of personal information acquired under the legislation and making it subject to a maximum penalty of 50 penalty units, which currently amounts to $5,500.

The bill also ensures that information provided to the commission for the purposes of maintaining the roll is not subject to the Freedom of Information Act or its successor. The bill requires the Electoral Commissioner to report annually to Parliament on any electoral information that he has decided should be disclosed in the public interest—for example, if the Electoral Commissioner were to disclose mobile phone numbers to relevant authorities for the purpose of sending SMS messages to residents who are at imminent risk of a bushfire emergency. The provisions of the bill with respect to elector privacy are both fair and balanced in the light of every person's obligation to be enrolled.

It is also important to note, if a person's address has been excluded from a roll kept by the Commonwealth under section 104 of the Commonwealth Electoral Act 1918, that that person will be taken to be a silent voter under new section 31 (5), which is in schedule 1 [7] to the bill. The bill also will allow persons to make an application for silent elector status directly to the New South Wales Electoral Commissioner. In addition, when the Electoral Commissioner gives notice to a person that he proposes to enrol that person as residing at a particular address, that notice will alert the person to special enrolment arrangements, which are arrangements made for silent electors.

The notice will request that the person contact the New South Wales Electoral Commission if the person believes that having their address shown on a publicly available roll may endanger their safety or the safety of their family. This is consistent with current enrolment practices. The Electoral Commissioner will send out such notices only to the elector's most recent address—in other words, their current place of living—according to information received from government agencies and utilities. Therefore there is a very low risk of a person's current place of living being disclosed on the electoral roll without their first being notified and given the opportunity to become a silent voter.

In response to a comment made by the member for Port Stephens that it is not compulsory to enrol to vote in New South Wales, I point out that it is compulsory for people of voting age to be enrolled under the Parliamentary Electorates and Elections Act. The bill does not change that. As to costs, I am able to confirm for the benefit of the member for Port Stephens that local government will not be charged for the cost of the Smart Roll project. The member for Ryde raised issues about photo identification. I point out that amendments allowing for enrolment on polling day will not increase the risk of electoral fraud. The bill ensures that persons who wish to enrol and vote on polling day must produce a New South Wales driver's licence or Photo Card.

The person will be permitted to vote if they complete and sign a claim for enrolment form and an election official is satisfied that the person is who the person claims to be and that the proof of identity provided shows that the person's residence is the same as that named in the claim for enrolment. That is covered by proposed section 106. Once the claim for enrolment and required declaration have been completed and witnessed by an election official, the person will be allowed to cast their vote. The maximum penalty for making a false declaration is 10 penalty units or six months imprisonment or both. That is provided for in proposed section 106 [3] [b].

There is always a risk that people will attempt to vote more than once. This is so regardless of whether enrolment on the polling day is introduced. In this regard, the Electoral Commissioner advises that multiple

voting is thoroughly checked after the election. Scanned copies of the rolls marked at polling places are compared to detect instances where a person has voted more than once. All instances of multiple voting are investigated by the New South Wales Electoral Commission. Evidence from previous elections indicates that incidents of multiple voting are very rare and that the majority of cases are the result of an error made by an election official in marking the wrong name off the roll or an elderly person who has voted by post mistakenly attending a polling place to vote in person.

It is hard to justify the statement by the member for Coffs Harbour that governments are elected because of enrolment fraud. Both the Australian Electoral Commission and the New South Wales Electoral Commission have confirmed that there is no real evidence of systematic enrolment or voting fraud in past elections. The suggestion that we re-enrol everyone to address the risk of fraud would be extraordinarily expensive and borders on the preposterous. The bill make changes to Antarctic voting arrangements, but it also enables the Electoral Commissioner to trial mobile pre-poll voting in rural and remote areas. Comparing the challenges of Antarctic voting to the challenges faced in rural and regional areas is a bit far-fetched.

The current Act enables people to reproduce ballot papers by hand. The bill provides that any reproduction of ballot papers be done in accordance with modern standards, for example, by photocopying or printing. It will ensure greater integrity in the rare case when a polling place runs out of ballot papers, thereby depriving people of their right to vote. These reforms will help to ensure that all groups in society have a say in the electoral process. I commend the bill to the House.

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

Motion agreed to.

Bill agreed to in principle.

Passing of the Bill

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

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

Agreement in Principle

Mr BARRY COLLIER (Miranda—Parliamentary Secretary) [10.53 p.m.], on behalf of Ms Carmel Tebbutt: I move:

That this bill be now agreed to in principle.

This bill was introduced in the other place on 11 November 2009 and is in the same form. The second reading speech appears at pages 49 to 51 of the *Hansard* galley for that day. I commend the bill to the House.

Mr GREG SMITH (Epping) [10.53 p.m.]: I lead for the Coalition on the Statute Law (Miscellaneous Provisions) Bill No. 2 2009, which makes minor amendments to various Acts. The bill amends various Acts in schedule 1, amends certain other Acts and instruments for the purpose of effecting statute law revision in schedules 2 to 5, repeals certain Acts and provisions of Acts in schedule 6, and includes other provisions of a consequential or ancillary nature in schedule 7.

Schedule 1 contains amendments to 20 Acts. I will not go through them all, but I will deal with some of the more important amendments. The Commission for Children and Young People Act 1998 is amended in respect of the definition of child-related employment to insert "juvenile correctional centres" into section 33 [iv], which deals with employment in detention centres within the meaning of the Children (Detention Centres) Act 1987, and juvenile correctional centres within the meaning of the Crimes (Administration of Sentences) Act 1999. Currently the definition includes employment in juvenile detention centres. Schedule 1 extends the definition to include employment in juvenile correctional centres—such as Kariong Juvenile Correctional Centre—in which children also may be detained. As a result, the child-related employment provisions of that Act, which prohibit certain persons from engaging in child-related employment and require background checks to be carried out, will now also apply to employment in juvenile correctional centres.

Schedule 1 to the Retirement Villages Amendment Act 2008 is amended to repeal another uncommenced amendment and to retain the existing provision that allows any person to be appointed proxy,

except the retirement village operator or a close associate of the operator. The Road Transport (Safety and Traffic Management) Act 1999 is amended to provide that the duty under that Act to arrange for certain blood samples to be submitted to a laboratory for analysis is owed by the healthcare worker who took the sample rather than a police officer. Section 18D is amended to confirm the current police practice of conducting a further roadside oral fluid test provided under the Act by a driver who has been arrested for failing or refusing to undergo an initial oral fluid test in order to prohibit, if necessary, the person from driving a motor vehicle for a period of 24 hours.

An amendment is made to section 183 of the Strata Schemes Management Act 1996 concerning orders made by the Consumer, Trader and Tenancy Tribunal to reallocate unit entitlements in a strata scheme. Currently there is no requirement for such an order to be lodged with the registrar general once it is made by the tribunal. The amendment will require the owners' corporation for the strata scheme to ensure that a copy of the order is lodged with the registrar general no more than two years after the order is made to enable the appropriate amendments to the folio of the register to be carried out.

Schedule 2 deals with matters of statute law revision consisting of minor technical changes to legislation, apparently on advice from Parliamentary Counsel. Schedule 3 contains amendments to legislation to extend the requirement for publication on the New South Wales website to additional categories of statutory instruments. Schedule 4 amends the Local Court Act 2007 and contains statute law revision amendments that are consequential on the enactment of the Act. Most of these amendments involve replacing references to local courts with references to the single Local Court that replaced them. Schedule 5 updates references to liquor, registered clubs and casino legislation consequential on the enactment of the Liquor Act 2007 and the Casino, Liquor and Gaming Control Authority Act 2007. Schedule 6 repeals a number of Acts and provisions of Acts that are redundant, that contain only amendments that have commenced and amendments that cannot be incorporated. Schedule 7 contains general savings, transitional and other provisions. This bill is similar to many statute law revision bills and it is a suitable way to make minor and necessary amendments. The Coalition does not oppose the bill.

Mr BARRY COLLIER (Miranda—Parliamentary Secretary) [10.58 p.m.], in reply: I thank the member for Epping for his considered contribution to the debate. The Statute Law (Miscellaneous Provisions) Bill (No. 2) 2009 is intended to effect minor and non-controversial amendments to various Acts. The bill continues the statute law revision program that was established in 1984 as a cost-effective and efficient mechanism for making such amendments. I have pleasure in commending the bill to the House.

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

Motion agreed to.

Bill agreed to in principle.

Passing of the Bill

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

ADJOURNMENT

Motion by Mr John Aquilina agreed to:

That this House do now adjourn.

The House adjourned, pursuant to resolution, at 10.59 p.m. until Wednesday 2 December 2009 at 10.00 a.m.