

LEGISLATIVE COUNCIL

Wednesday 10 November 2010

The President (The Hon. Amanda Ruth Fazio) took the chair at 11.00 a.m.

The President read the Prayers.

AUSTRALIAN JOCKEY AND SYDNEY TURF CLUBS MERGER BILL 2010

TOTALIZATOR AMENDMENT BILL 2010

Bills received from the Legislative Assembly, and read a first time and ordered to be printed on motion by the Hon. Tony Kelly, on behalf of the Hon. Peter Primrose.

Motion by the Hon. Tony Kelly agreed to:

That standing orders be suspended to allow the passing of the bills through all their remaining stages during the present or any one sitting of the House.

Second reading set down as an order of the day for a later hour.

INDEPENDENT COMMISSION AGAINST CORRUPTION

Report

The President tabled, pursuant to the Independent Commission Against Corruption Act 1988, a report entitled "Investigation into Corruption Risks Involved in Lobbying," dated 20 November 2010, received and authorised to be made public this day.

Ordered to be printed on motion by the Hon. Tony Kelly.

NETBALL AUSTRALIA

Motion by the Hon. Marie Ficarra agreed to:

That this House:

1. Congratulates the Australian Netball Team that won the World Championship Title 42 goals to New Zealand's 38 at the World Championships held in New Zealand on 10 to 17 November 2007 and consisted of:

Liz Ellis – Captain
Sharelle McMahon – Vice Captain
Bianca Chatfield
Catherine Cox
Mo'onia Gerrard
Selina Gilsenan
Natalie Medhurst
Lauren Nourse
Susan Pratley
Julie Prendergast
Laura Von Bertouch
Natalie Von Bertouch.

2. Congratulates the Officials of the Australian Netball Team:

Coach: Norma Plummer
Assistant Coach: Susan Kenny
Manager: Margaret Molina.

3. Extends best wishes to retiring Australian Captain, Liz Ellis and those other members of the Australian team.
4. Calls on the Government to increase funding to the sport of Netball in New South Wales.

OZ OPERA

Motion by the Hon. Penny Sharpe agreed to:

That this House:

- (a) congratulates Opera Australia's schools touring project, Oz Opera, for the launch of their 2009 touring production of Cinderella,
- (b) congratulates the all-Australian creative team and cast of emerging New South Wales singers that participate in this event,
- (c) recognises the importance of the Oz Opera program as an arts education initiative introducing opera performed live to students and enhancing classroom learning in music and drama,
- (d) notes the support of the Government, through Arts NSW, for cultural activities across the State, and the Government's commitment to ensuring that children have access to cultural activities no matter where they live,
- (e) notes that during its seven-month New South Wales tour in 2009, Oz Opera will perform to 45,000 primary school children over 265 performances in more than 160 primary schools, including Coffs Harbour, Goulburn, Orange and Dubbo, and
- (f) notes the commitment of the Department of Education and Training to holistic arts education through events such as this that complement curriculum across music, drama and social sciences.

NEW SOUTH WALES NETBALL ASSOCIATION

Motion by the Hon. Marie Ficarra agreed to:

1. That this House notes:
 - (a) that on 4 July 1929, the New South Wales Women's Basketball Association began, and
 - (b) that in 2009, 106,000 netballers from across New South Wales will celebrate 80 years of the great sport known as netball.
2. That this House thanks all those who have made netball in New South Wales the great success it is, in particular:
 - (a) Life Members of the NSW Netball Association:

Miss Mary Matheson, Mrs Edna Ross, Miss Margaret Morris, Mrs Nancy Kenny OAM, Ms Marie Dundon, Miss Anne Clark BEM, Mrs Amy Dobbie, Miss Dorothy McHugh OAM, Mrs Eileen Percy, Mrs May Hackett MBE, Mrs Moira McGuinness MBE, Mrs Pat Weston OAM, Mrs Neita Matthews OAM, Mrs Marj Groves AM, Mrs Margaret Corbett, Mrs Barbara Long, Mrs Audrey Davis, Mrs Marie Dunn OAM, Mrs Lynn Quinn, Mrs Anne Doring, Mrs Marilyn Melhuish OAM, Mrs Kath Fullagar and Mrs Maureen Boyle OAM,
 - (b) recipients of the NSW Netball Association's Anne Clark Outstanding Service Award:

Margaret Corbett, Jean Gee OAM, Moira McGuinness MBE, Irene Pychtin, Val Curran, Marj Groves AM, Pam Hall, Gai O'Sullivan, Joy Waite (Lister), Edna Jenkin, Barbara Long, Neita Matthews OAM, Betty Moore, Jean Peare, Mavis Shipway, Gladys Waugh, Evelyn Bywater, Angles Ellis, Molly Smith, Val Oliver, Kath Whiteley, Clare Lear, Pat Craig, Margaret Elder, Evelyn Langbein, Beatrice Bessell, Myra Bradley, Maureen Greentree, Robyn Kenny, Beryl Mooney, Adele Saunders, Dot Lockwood, June Roby, Joan Buttriss, Marie Dunn OAM, Betty McGirr, Gai Urquhart, Carol Baiton, Lorna Allen, Val Lalor, Peggy Moore, Cath Penning, Jeanette Wright, Nance Dwyer, Shelia Eather, Clare Loughland, Frances Smith, Jill Beckhaus, Myrtle Williams, Anne Marie Osborne, Ivy Haughey, Margaret McGrath, Sue Mitchell, Maureen Long, Maureen Long, Madeleine Allen, Joy Charles, Noeline Boyce, Irene Murray, Eulalie Hayes, Kath Fullagar, Margaret Smith, Joan Burge, Pat Bishop, Joan Marscham, Shirley Fitzgerald, Brenda Williams, Shirley Connolly, Maureen Boyle OAM, Barbara Bird, Joan Brook, Christine Byng, Maureen Goetze, Coralie Newman, Pam Guyer, June Jarman, Yvonne Keegan, Lesley Quinn, Gwen Winsor, Carmel Higgins, Vera Wiltshire, Valda Hampson, Estelle Lawler, Margaret Burke, Robyn Bates, Laurie Bissaker, Roslyn De Luca OAM, Colleen Kime, Dianne Pascoe, Helen Andrews, Len Burgess, Betty Greenaway, Rena Spears, Patricia Yeomans, Helen Cane, Lynne Middleton, Helene Herbert, Lesley Morgan, Kay Hodge, Cathy Aird, Val Bruncker, Beverley Dew, Kay Smith, Rhonda Swindale, Margaret Cliff, Berwyn Collings, Aileen Shutt, Beverleen Woodward, Lesley Milner, Sandra Marks, Ceryl Hamilton, Norma Lowe, Myra Zacher, Cheryl Cairns, and
 - (c) Hall of Fame inductees: Maureen Boyle OAM, Anne Clark BEM, Margaret Corbett, Nicole Cusack, Keeley Devery OAM, Amy Dobbie, Nola Green, Terese Kennedy, Sue Kenny OAM, Anne Sargeant OAM, Carol Sykes and Carissa Tombs OAM.
3. That this House congratulates the current Netball NSW Board of Directors on their excellent work:

Wendy Archer AM (President), Rodney Watson (Vice President), Michele Murphy (State Administration), Carol Murphy (Sports Marketing), Ruth Havrlant (Technical Services), Lynn Quinn (Championships and Events), John Hahn (Finance).
4. That this House congratulates NSW Netball Association Ltd on its 80th anniversary.

WHITE BALLOON DAY

Motion by the Hon. Marie Ficarra agreed to:

1. That this House notes that:
 - (a) Tuesday 8 September 2009 is White Balloon Day, established to break the silence on child sexual assault,
 - (b) Child Protection Week is 7 to 11 September 2009,
 - (c) research indicates that one in five children will be sexually assaulted before their 18th birthday, and
 - (d) services provided by Bravehearts are vital in our community.
2. That this House:
 - (a) congratulates Bravehearts for its continuing efforts to stop sexual assault in Australia and support victims of sexual assault, and
 - (b) congratulates Bravehearts for its programs and activities including:
 - (i) Ditto's Keep Safe Adventure Education Program, which teaches children in preschools and schools about personal safety,
 - (ii) counselling and support programs, advocacy, lobbying and campaigning,
 - (iii) the Sexual Assault Disclosure Scheme,
 - (iv) its research program,
 - (v) the Crisis Information Pack,
 - (vi) utilising MySpace, including a partnership with MySpace, to provide information and support to young people,
 - (vii) training and awareness workshops on risk management for staff and volunteers in organisations that have contact with children,
 - (viii) its Supporting Hands workshops,
 - (ix) its Therapeutic Professionals workshops.
3. That this House thanks the following people and organisations for their extraordinary work and contribution:
 - (a) the founder of Bravehearts, Mrs Hetty Johnston,
 - (b) Mr Roger and Mrs Wendy Woodward, State co-ordinators, who were instrumental in bringing Bravehearts to New South Wales,
 - (c) Mr Ray Hadley OAM, Bravehearts Ambassador,
 - (d) Mr James Barnier, Chairperson of Bravehearts in New South Wales and his fellow board members, and
 - (e) Bravehearts' major sponsors in New South Wales: Lucas Property Group, Movers and Shakers Pty Ltd, Lamson Paragon Pty Ltd, Ord Minnett, Nutrimetics, Sydney Shelving, Bowermans, Karen Lindley Jewellery, 2GB, Sydney Turf Club, Kembla Grange Turf Club, BlueScope Steel and Shoalhaven City Council.
4. That this House calls on the Government to allocate appropriate funding to Bravehearts so it can continue its great work.

INTERNATIONAL OLYMPIC COMMITTEE

Motion by the Hon. Lynda Voltz agreed to:

That this House:

- (a) congratulates the International Olympic Committee on the decision to include Women's Boxing in the 2012 Olympics,
- (b) congratulates the International Olympic Committee on the decision to include Women's Rugby 7's tournaments in the 2012 Olympics, and
- (c) notes that the Australian Women's Rugby 7's team are the current world champions

WARD OVAL, COBAR**Motion by the Hon. Lynda Voltz agreed to:**

That this House:

- (a) notes that Ward Oval Cobar held an official “switching on” ceremony on Friday 23 October 2009, and
- (b) congratulates Cobar Shire Council, the State Government and the Federal Government for this \$480,000 partnership, which will provide not only much-needed relief for the local sporting community, allowing games to be played outside the heat of the day, but will allow Cobar to increase its festival and events, such as the Miners Ghost Festival, and attract greater visitor numbers.

EQUAL PAY**Motion by the Hon. Penny Sharpe agreed to:**

That this House:

- (a) notes with concern that Australia is ranked 60th in the 2009 Global Gender Gap Index published by the World Economic Forum,
- (b) recognises that this is an improvement from the 2008 ranking of 77th place,
- (c) notes that a range of factors have played a part in creating and maintaining the gender pay gap,
- (d) recognises that the industrial jurisdiction of New South Wales has always been an industrial innovator, establishing important community standards, and facilitating best practice standards with a commitment to achieving equal remuneration, and
- (e) acknowledges the ongoing commitment to ensure New South Wales workers in the national industrial relations system have access to meaningful equal remuneration protections.

APPIN MASSACRE MEMORIAL**Motion by the Hon. Lynda Voltz agreed to:**

That this House:

- (a) recognises the seventh annual Appin Massacre Memorial Ceremony held on 18 April 2010 in recognition of the 1816 massacre of Dharawal people near Appin, and
- (b) congratulates the work of Winga Myamly Reconciliation Group and the Catholic Aboriginal Ministry from Minto in south west Sydney in supporting the memorial event.

NATIONAL NETBALL CHAMPIONSHIPS**Motion by the Hon. Marie Ficarra agreed to:**

1. That this House notes that:
 - (a) the Under 19 years and Under 17 years New South Wales representative netball teams made it to the 2010 Grand Finals of the DealsDirect.com.au National Netball Championships,
 - (b) the Under 17 years team, in a thrilling match against Victoria, were only defeated by one goal and became runners up in the championship, and
 - (c) the Under 19 years team battled hard with Queensland, only to be defeated 27 to 24, and became runners up in the championship.
2. That this House congratulates all officials and players involved in the 2010 DealsDirect.com.au National Netball Championships, particularly:

Under 19 years team:

Coach: Moira Gaha
Manager: Maureen Stephenson
Nicola Gray—Manly Warringah
Paige Hadley—Penrith
Alix Kennedy—Sutherland Shire
Alix McDermott—Penrith
Sophie Metcalfe—Manly Warringah
Brooke Miller—Manly Warringah
Samantha Poolman—Newcastle
Verity Simmons—Grafton

Gabi Simpson—Randwick
 Megan Styles—Penrith
 Melissa Tallent—Sutherland Shire
 Kathryn Thew—Penrith

Under 17 years team:

Coach: Lenore Blades
 Manager: Donna Harrison
 Bridget Abbott—Manly Warringah
 Anita Blanco—Sutherland Shire
 Emily Chapple—Sutherland Shire
 Taylah Davies—Illawarra
 Samantha Davis—Wyong
 Gemma Ferrington—Gosford
 Hannah Jones—Eastwood Ryde
 Hannah Lee—Sutherland Shire
 Tiesha Ojeda—Sutherland Shire
 Claudia Russell—Maitland
 Amy Sommerville—Eastwood Ryde
 Courtney Torpy—Blacktown.

3. That this House congratulates the following New South Wales players who were selected in Australian Squad Teams:

Australian under 19 years squad:

Nicola Gray—Manly Warringah
 Sophie Metcalfe—Manly Warringah
 Samantha Poolman—Newcastle
 Verity Simmons—Grafton
 Gabi Simpson—Randwick
 Melissa Tallent—Sutherland Shire

Australian under 17 years squad:

Anita Blanco—Sutherland Shire
 Hannah Lee—Sutherland Shire
 Taylah Davies—Illawarra
 Amy Sommerville—Eastwood Ryde
 Courtney Torpy—Blacktown.

BODY IMAGE

Motion by the Hon. Marie Ficarra agreed to:

1. That this House:
 - (a) notes that the National Strategy on Body Image report encourages advertisers, the media and the fashion industry to promote more positive body image messages,
 - (b) notes that the report includes a Voluntary Industry Code of Conduct on Body Image which recommends using healthy weight models, realistic and natural images of people and disclosure when images of people have been digitally manipulated, and
 - (c) notes with concern that the 2010 Rosemount Australian Fashion Week failed to include plus size models.
2. That this House calls on the organisers of Fashion Week, and fashion designers involved with the Rosemount Australian Fashion week to subscribe to the Voluntary Industry Code of Conduct on Body Image and include in the 2011 Australian Fashion Week plus-size models.

VOLUNTEERING

Motion by the Hon. Penny Sharpe agreed to:

That this House:

- (a) notes the enormous contribution made by volunteers to the New South Wales community,
- (b) congratulates all New South Wales volunteers for their passion and commitment to the ongoing support that they provide to their local communities, and
- (c) lends its support to National Volunteer Week in encouraging, recognising and celebrating the efforts of volunteers throughout New South Wales.

JESSICA WATSON VOYAGE**Motion by the Hon. Marie Ficarra agreed to:**

That this House:

- (a) notes that solo yachtswoman, Jessica Watson, from Buderim, Queensland, achieved her goal and on her yacht, Pink Lady, sailed approximately 23,000 nautical miles, or 38,000 kilometres, around the world,
- (b) notes that Jessica Watson is the youngest person to sail around the world, non-stop and unassisted, and
- (c) congratulates Jessica Watson on this extraordinary achievement and wishes her all the best for the future.

NEW SOUTH WALES WEIGHTLIFTING ASSOCIATION**Motion by the Hon. Marie Ficarra agreed to:**

1. That this House notes that, on Friday 28 May 2010, the NSW Weightlifting Association celebrated its 75th anniversary at Le Montage Function Centre, Lilyfield.
2. That this House congratulates:
 - (a) Mr Chris Michaelopoulos, President, NSW Weightlifting Association, Mr Sam Coffa AM, President, Australian Commonwealth Games Association and first Vice President, International Weightlifting Federation, Mr Luke Borreggine, Honorary Chief Executive Officer, NSW Weightlifting Association, and Mr Steven Tikkanen, Honorary Secretary, NSW Weightlifting Association for their outstanding contribution to the sport of weightlifting,
 - (b) Mr Laurie Lawrence and Mr Paul Tabet, master of ceremonies and auctioneer respectively for making the anniversary night a success,
 - (c) NSW Weightlifting Athletes who have been Commonwealth and Olympic representatives: Charles Henderson, Manny Santos, Gerald Hay, George Vasilades, Charles Quagliata, Don Mitchell, Greg Hayman, Paul Harrison, Mehmet Yagci, Natasha Barker, Nadeen Latif and Valarie Sarvara, and
 - (d) NSW Weightlifting officials who have officiated at the Commonwealth Games and the Olympics: Lyn Jones, Ralph Cashman, Julian Jones, Luke Borreggine, Cameron Menhenick, Steven Tikkanen and Chris Michaelopoulos.
3. That this House thanks the sponsors of the anniversary function: Bing Lee, Sydney Confidential Security, Pike Chemist, Allied Painting, Seven Hills/Toongabbie RSL, Sydney Sportsmed Specialist, Eric's Art, Top Nutrition, Martin Harlowe from Triumph Weightlifting Club, Leonard C. Tusa Chartered Accountants, Woodstock Childcare Centre, George Ellis and Co, Nevco Engineering Manufacturing, Nipiseal and Touchdown Tours.
4. That this House wishes the athletes and officials of the Titans and Triumph weightlifting clubs all the best for their forthcoming tour of America and their challenge against the Florida State weightlifting teams.

AUSTRALIAN WOMEN'S FOOTBALL TEAM**Motion by the Hon. Lynda Voltz agreed to:**

That this House:

- (a) congratulates the Australian Women's Football team, the Matilda's, on their outstanding win in the final of the 2010 Asian Football Confederation Women's Asian Cup to bring home Australia's first major football title win,
- (b) acknowledges the outstanding efforts of the Captain Melissa Barbieri, and the squad, comprising Clare Polkinghorne, Lauren Colthorpe, Servet Uzunlar, Heather Garriock, Kate Gill, Collette McCallum, Aivi Luik, Sally Shipard, Elise Kellond-Knight, Kylie Ledbrook, Sam Kerr, Kyah Simon, Kim Carroll, Lydia Williams, Karla Reuter, Thea Slatyer, Leena Khamis, Casey Dumont and Teigen Allen, and
- (c) wishes the injured players Tameka Butt, Sarah Walsh and Lisa De Vanna, who made major contributions during the tournament, a speedy recovery.

AIDS COUNCIL OF NEW SOUTH WALES**Motion by the Hon. Penny Sharpe agreed to:**

That this House:

- (a) notes that this year marks the 25th anniversary of the Aids Council of New South Wales Incorporated (ACON), New South Wales' and Australia's largest community-based gay, lesbian, bisexual and transgender (GLBT) health and HIV/AIDS organisation,

- (b) congratulates ACON for its work in promoting the health and wellbeing of the GLBT community and, in particular, those affected by HIV,
- (c) acknowledges the role ACON has played since 1985 in reducing HIV transmission in New South Wales and its prevention programs for groups most at risk of HIV infection, including sex workers, people who inject drugs and gay men, and
- (d) wishes the ACON Board, its employees, and volunteers continued success for this its 25th year and for many years into the future.

ITALIAN NATIONAL CELEBRATION COMMITTEE

Motion by the Hon. Marie Ficarra agreed to:

1. That this House:
 - (a) congratulates the 2010 Italian National Celebration Committee for its outstanding work in organising the celebrations held at Doltone House on Sunday 6 June 2010: John Caputo, OAM, President; Tony Mustaca and Joseph Santarosa, Vice Presidents; Luigi Stivala, Treasurer; Vince Santarosa, Secretary; Anthony Colombo, Youth Representative; and members of the Working Committee, Mario Beddoni, Filomena Calabria, Antonio Caputo OAM, Salvatore D'Angelo, Lucho De Nicola, Giuseppe Fin OAM, Kerim El Gabaili, Pino Frezza, Riccardo Montrone, Lorenzo Porfiri, Giovanni Romeo, Alfredo Vari, John Calabrese and Federica Polegri,
 - (b) acknowledges current and former members of Parliament and local government representatives that attended the celebration in support of the Italian/Australian community: the Hon Amanda Fazio, MLC, the Hon David Clarke, MLC, the Hon. Phil Costa MP, the Hon. Tony Abbott MP, the Hon Marie Ficarra MLC, Mr Barry O'Farrell, MP, Ms Gladys Berejiklian, MP, Mr Victor Dominello, MP, Mr Anthony Roberts, MP, the Hon. Phillip Ruddock, MP, the Hon. Santo Santoro, the Hon. Franca Arena, AM, the Hon. Sandra Nori, the Hon. Brian Pezzutti, Mayor John Sidoti, Mayor Joe Cosseri, and Councillors Andy Rohan, Zaya Toma, Vincent De Luca, OAM, Henson Liang and John La Mela, and
 - (c) thanks the sponsors of the event, major sponsors: Willoughby City Council, Doltone House, Italian Chamber of Commerce and Industry in Australia Inc; and other sponsors: HSBC, Canterbury BMW, Conca D'oro Events Centre, House of Cerone, City of Sydney Council, Curzon Hall, Le Montage Events Centre, Westpac, Rete Italia, Italian Government Tourist Office, Hugo Halliday, Nick Scali Furniture, Prografica, A O'Hare Funerals, I.A.Y.A., United Cinemas, Emirates, Qantas, Lucho Video Productions, Brenex, Barilla, Marano Insurance Brokers, Ferrari, La Fiamma, R H Taylor Trucks, V Cammareri Travel, Peroni Italy, Roy and Tony Mustaca, 2GB 873am, Crinitis Restaurant, Omega Travel, Caputo First National Real Estate, Co.As.It, The Jetset Travelworld Group, Andrew Valerio and Sons Funeral Services, NSW Community Relations Commission, Duncan Dovico, Italo Australian Club, Brenex, Frank Carioti, NJ Papallo and Co, Parisi Industries, Felice E Riccardho Montrone, Foti International, Riverwood Shoe Repairs, Jolly Studio, Scundi Brothers, San Francesco Catholic Italian Association and Paul Signoreli of Doltone House.

CHINA AND TAIWAN

Motion by the Hon. Marie Ficarra agreed to:

1. That this House:
 - (a) welcomes the signing of various bilateral agreements since 2008 between China and Taiwan, including direct flights, maritime shipping, linking of postal services, food security, financial services, telecommunications and the Economic Framework Agreement,
 - (b) recognises that the continued improvement in relations between China and Taiwan is conducive to the long-term rapprochement between these communities and will have a positive effect on the stability and security of the Asia-Pacific region,
 - (c) encourages both sides of the Taiwan Strait to further enhance dialogue, practical cooperation and confidence-building, including a cooperative approach towards providing increased opportunities for Taiwan's participation in international forums and global policy dialogue, particularly concerning international aviation and the environment within bodies such as the International Civil Aviation Organisation (ICAO) and United Nations Framework Convention on Climate Change (UNFCCC), and
 - (d) congratulates Ms Frances Chung-Feng Lee, Director General of the Taipei Economic and Cultural Office (Sydney) and Mr Bob Lu, Director, of the Taipei Economic and Cultural Office (Sydney) on the excellent work they are undertaking to enhance and foster relations between New South Wales and Taiwan.

SYDNEY UNIVERSITY WOMEN'S RUGBY UNION TEAM

Motion by the Hon. Linda Voltz agreed to:

That this House congratulates the Sydney University Women's Rugby Union Team for taking out their first Grand Final in the nineteen year history of the Sydney Women's Rugby Tournament.

AUSTRALIAN WOMEN'S RUGBY UNION TEAM

Motion by the Hon. Linda Voltz agreed to:

That this House congratulates:

- (a) the Australian Women's Rugby Union Team, the Wallaroos, led by Cheryl Soon, who have recorded their best ever finish at a Women's Rugby World Cup to claim third place after beating France in London, and
- (b) Australian referee, Sarah Corrigan, who was appointed to officiate the 2010 International Rugby Board Women's Rugby World Cup final between New Zealand and England.

WHITE RIBBON FOUNDATION

Motion by the Hon. Marie Ficarra agreed to:

1. That this House notes that:

- (a) the White Ribbon Foundation's 5th White Tie Dinner was held at Sydney Town Hall on 15 September 2010,
- (b) the objectives of the White Ribbon Foundation are:
 - (i) to create wide-scale awareness about the positive role that men can play in bringing an end to violence against women,
 - (ii) to enable leadership, particularly by men and boys, to bring about social change,
 - (iii) to build collective knowledge and understanding of the effective prevention of violence against women, and
- (c) the following people were nominated as Ambassadors of the Year:
 - (i) Australian Capital Territory: Roni Gori, Rob Regent and Chris Wagner,
 - (ii) New South Wales: Steve Canane, Tim Carroll, Gary Commins, Vincent De Luca OAM, Colin Fraser, Phil Heron, Phil Lambert and Adam Spencer,
 - (iii) Northern Territory: Tong Galiki,
 - (iv) Queensland: Peter Rookas, John Minz and Jaime Midson,
 - (v) South Australia: Steve Perryman and Michael O'Connell,
 - (vi) Victoria: Tom Cooper, Meir Shlomo, Mick Mazzarella, Murray McInnes, Jeremy Meltzer, Stephen O'Malley and Rod Ward,
 - (vii) Western Australia: Reece Harley.

2. That this House congratulates:

- (a) the Board of the White Ribbon Foundation for their outstanding work: Chairman Andrew O'Keefe, Rosemary Calder, Charles Curran, Leigh Gassner and Libby Lloyd, and
- (b) Mr Nick Mazzarella, Manager Major Projects and Transport, City of Darebin for winning the White Ribbon Foundation's Ambassador of the Year Award.

3. That this House thanks all sponsors and contributors to the White Ribbon Foundation: Lion Nathan, Automotive Holdings Group AHG—Australia's Largest Motoring Group, Nicole Kidman and Blossom Films, Suzanne Grae, Alannah Hill, ZenithOptimedia, Simon Bartley at Seizmic, BRANDNEWMAN, Text100, Deepend, The Body Shop, The Salvos, Lifeline, Capital Investment Group, NSW Department of Education, Maritime Union of Australia, NRL, AFL, FFA, KPMG, Allens Arthur Robinson, Gilbert and Tobin, UNIFEM Australia, DKC Conference and Event Management, The Seven Network, McGrath Liverpool, McGrath Sutherland, McGrath, City of Sydney, Rand, TWU, Football Federation Australia, Dockside Group, Seizmic Thinking, Australian Federal Police.

SCIENTIST OF THE YEAR

Motion by the Hon. Linda Voltz agreed to:

1. That this House notes that:

- (a) Professor Hugh Durrant-Whyte was recognised on Wednesday 15 September 2010 as the 2010 New South Wales Scientist of the Year by the Governor of New South Wales and Patron of the awards, Professor Marie Bashir,

- (b) Professor Durrant-Whyte, who leads the Australian Research Council Centre of Excellence for Autonomous Systems and the Australian Centre for Field Robotics at the University of Sydney, was recognised for developing innovative robots for a wide range of applications, and
- (c) the awards recognise and reward the State's leading researchers for cutting edge work that generates economic, health, environmental or technological benefits for New South Wales.

HEADACHE AND MIGRAINE

Motion by the Hon. Linda Voltz agreed to:

That this House:

- (a) notes that 19 to 25 September 2010 is Headache and Migraine Awareness Week, and
- (b) congratulates Headache Australia and our dedicated health professionals in New South Wales who are working to raise community awareness and reduce the impact of headaches in our community and the impact this can have on our health system, in the workplace and in schools.

NSW POLICE LEGACY BLUE RIBBON DINNER

Motion by the Hon. Linda Voltz agreed to:

1. That this House notes that:
 - (a) NSW Police Legacy celebrated its annual Blue Ribbon Dinner on Friday 17 September 2010,
 - (b) NSW Police Legacy is a not-for-profit organisation that provides financial, social and emotional help to more than 1,060 widows, widowers and partners of deceased police officers, as well as 250 children, and
 - (c) Premier Kristina Keneally announced the Government would donate \$50,000 to NSW Police Legacy, joining a flood of support for the organisation since the tragic death of Constable William Crews.
2. That this House congratulates NSW Police Legacy for its ongoing support, both financially and emotionally, for the widows, widowers, partners and children of deceased police officers.

ST MARY MACKILLOP

Motion by the Hon. Marie Ficarra agreed to:

1. That this House notes that:
 - (a) Saint Mary MacKillop, an Australian Catholic nun, was born 15 January 1842 in Fitzroy, Victoria,
 - (b) Mother Mary was beatified on 19 January 1995 in Sydney by Pope John Paul II and was canonized on 17 October 2010 by Pope Benedict XVI in Rome,
 - (c) after her canonisation Mother Mary will be known as Saint Mary of the Cross,
 - (d) Mother Mary died on 8 August 1909 in the Josephite convent in North Sydney,
 - (e) Mary MacKillop, together with Father Julian Tenison Woods, founded the Sisters of St Joseph of the Sacred Heart to provide education to all, especially the poor and disadvantaged in rural and remote areas of Australia and New Zealand,
 - (f) in 1925 the Mother Superior of the Sisters of St Joseph, Mother Laurence, began the process to have Mary MacKillop declared a saint and, after several years of hearings and close examination of MacKillop's writings, the initial phase of investigations was completed in 1973,
 - (g) Mary MacKillop's 'heroic virtue' was declared in 1992 with a decree regarding her first miracle concerning a woman with terminal leukaemia, and
 - (h) on 19 December 2009 the Congregation for the Causes of Saints issued a papal decree recognising a second miracle, the complete and permanent cure of an Australian woman of lung and secondary brain cancer.
2. That this House:
 - (a) acknowledges the extraordinary work and holiness of our first Australian saint, her heroic service of God, her open hearted love for the poor and deprived, and her determination to bring a Catholic education to the children of the colonies,

- (b) commemorates Saint Mary MacKillop whose dream was realised of opening schools where there was no class distinction, offering refuge to the most neglected, and bringing practical help to families in need, and
- (c) proudly celebrates Saint Mary McKillop's Feast Day on 8 August each year.

COMMONWEALTH GAMES

Motion by the Hon. Linda Voltz agreed to:

1. That this House notes that at the 2010 Commonwealth Games:
 - (a) 66 New South Wales Institute of Sport (NSWIS) athletes were included in the team of 370 Australian athletes making up 18 per cent of the team,
 - (b) 42 NSWIS supported athletes produced 42 medal winning performances, including 20 gold, 15 silver and seven bronze,
 - (c) NSWIS athletes contributed to 42 of the 177 medals won by Australia, totalling 24 per cent,
 - (d) Australia finished first on the medal tally,
 - (e) if the NSWIS was a nation, the Institute would have finished fifth overall, and
 - (f) NSWIS Gold Medalists included Mathew Gray in Archery, Megan Dunn in Cycling, Alexandra Croak and Melissa Wu in Diving, Simon Orchard in Men's Hockey, Alison Bruce, Toni Cronk, Casey Eastham, Kate Hollywood, Emily Hurtz, Kate Jenner, Fiona Johnson and Megan Rivers in Women's Hockey, Prashanth Sellathural in Gymnastics, Geoff Huegill, James Magnussen, Eamon Sullivan and Ben Austin in Swimming, Kurt Fearnley in Wheelchair Track and Road and Nazmi Johnston in Gymnastics.
2. That this House congratulates all the athletes in the Australian 2010 Commonwealth Games Team for their outstanding performances.

ARMISTICE DAY

Motion by the Hon. Michael Gallacher agreed to:

1. That this House notes that:
 - (a) 11 November 2010 will mark the 92nd anniversary of the end of World War I,
 - (b) at 11.00 am on the eleventh day of the eleventh month, two minutes of silence is observed throughout Australia to mark this solemn occasion, and
 - (c) at 11.00 am on 11 November 2010, this House is scheduled to resume.
2. That this House calls on the Leader of the Government to resume this House earlier than 11.00 a.m. to allow members to be present in the House to mark this anniversary in silence.

BUSINESS OF THE HOUSE

Formal Business Notices of Motions

Private Members' Business item No. 252 outside the Order of Precedence objected to as being taken as formal business.

ADELONG PUBLIC SCHOOL

Motion by the Hon. Michael Veitch agreed to:

1. That this House:
 - (a) notes that on 24 September 2010, Adelong Public School officially celebrated its sesquicentenary, and
 - (b) extends its congratulations to the organising committee, the school teaching and administrative staff, students and the community of Adelong on achieving the outstanding milestone of 150 years continuous education.
2. That this resolution be communicated by the President to Adelong Public School.

TRANSGENDER DAY OF REMEMBRANCE

Motion by the Ms Cate Faehrmann agreed to:

1. That this House notes that:
 - (a) 20 November 2010 is the 12th International Transgender Day of Remembrance,
 - (b) the International Transgender Day of Remembrance is an annual event to commemorate the lives of those who have died due to anti-transgender hatred, prejudice or violence,
 - (c) levels of transphobic violence and discrimination in the community are still unacceptably high, and
 - (d) the good work of the Gender Centre Inc. and other organisations that support the transgender and gender diverse community, their families and friends across metropolitan, rural and regional New South Wales.
2. That this House expresses its deepest condolences to the families and friends of those who have lost their lives due to transphobia in all its forms.

BUSINESS OF THE HOUSE

Formal Business Notices of Motions

Private Members' Business items Nos 262 and 264 outside the Order of Precedence objected to as being taken as formal business.

UNPROCLAIMED LEGISLATION

The Hon. John Robertson tabled a list detailing all legislation unproclaimed 90 calendar days after assent as at 9 November 2010.

TABLING OF PAPERS

The Hon. John Robertson tabled the following papers:

- (1) Annual Reports (Departments) Act 1985—Reports for the year ended 30 June 2010:
Community Relations Commission
Judicial Commission of New South Wales
- (2) Annual Reports (Statutory Bodies) Act 1984—Report of the NSW Trustee and Guardian for the year ended 30 June 2010.
- (3) Anti-Discrimination Act 1977—Report of the Anti-Discrimination Board of New South Wales for the year ended 30 June 2010.
- (4) Crimes (Administration of Sentences) Act 1999—Report of the Serious Offenders Review Council for the year ended 31 December 2009.
- (5) Law Reform Commission Act 1967—Report of the Law Reform Commission for the year ended 30 June 2010.
- (6) Legal Profession Act 2004—Report of the Legal Profession Admission Board for the year ended 30 June 2010.

Ordered to be printed on motion by the Hon. John Robertson.

AUDITOR-GENERAL'S REPORT

The Clerk announced the receipt, pursuant to the Public Finance and Audit Act 1983, of the Financial Audits Report of the Auditor-General, Volume Five 2010, entitled "Focusing on Public Financing Enterprises", dated November 2010, received and authorised to be printed this day.

PETITIONS

Bondi Road Summer Clearway

Petition opposing the Government's decision to reintroduce a summer clearway on Bondi Road from 1 December 2010, and calling on the Government to work with the community to resolve local traffic congestion, received from the **Hon. Don Harwin**.

Byrrill Creek Dam Proposal

Petition praying that the House ensure that any dam within Byrrill Creek is prohibited in the forthcoming Tweed River Area Unregulated and Alluvial Water Sharing Plan 2010, received from the **Hon. Ian Cohen**.

SPECIAL ADJOURNMENT

Motion by the Hon. Tony Kelly agreed to:

That this House at its rising today do adjourn until Thursday 11 November 2010 at 10.57 a.m.

ST MARY OF THE CROSS MACKILLOP

Ministerial Statement

The Hon. TONY KELLY (Minister for Planning, Minister for Infrastructure, and Minister for Lands) [11.22 a.m.]: As I alluded to during the last sitting week, I was recently in Rome representing the New South Wales Government and Premier Kristina Keneally at the canonisation mass of St Mary of the Cross MacKillop. To say that I found the activities of that week awe inspiring would be an understatement. Having much of my belief system informed by my Catholic upbringing, education and faith, one would rightfully predict such a response from me. However, I would add that being from country New South Wales contributed to the privilege I felt at being present at such an historic occasion. I understand the challenges faced by both parents and students living in rural and regional communities, particularly with regard to accessing education and training, something St Mary strived to overcome when she battled the conventions of the day to extend education to all.

As many members would be aware, the young Mary Helen MacKillop left her family home in Fitzroy, in Melbourne, to commence working as a governess to her young cousins in Penola, South Australia, when she was 18 years old. At this juncture I point out that I was joined in Rome by the Hon. Jennifer Gardiner, who was representing the Opposition at the celebrations. I will leave the Hon. Jennifer Gardiner to speak about her impressions of the celebrations. However, I should say at the outset that I think the Hon. Jennifer Gardiner was certainly the right person to represent the Opposition there because she was born in Penola, South Australia, where Mary MacKillop worked, so I think her impressions would be an insight to us all.

The opportunity of working as a governess to her young cousins in Penola not only secured for Mary a guaranteed income—which went a long way towards supporting her family back home—but also proved to reinforce to her the importance of a good education and its transformative effect. For Mary, a lifelong commitment to ensuring that these same opportunities were extended to the poor of our communities, particularly those in rural and regional areas, soon followed. At this time the pastoralist areas in the fledgling colony were expanding, and as a consequence so were the educational needs of those communities. Under the guidance of her spiritual director, Father Julian Woods, Mary's desires to provide the gift of education to all children, regardless of their standing, were realised.

Mary saw no distinction between affluent and poor, city dwellers and country folk, Christian and non-Christian, or those who could afford an education and those who could not. Mary accepted all those who were willing to learn, without exception, into her schools, the first of which was in a disused barn in Penola. Within five years, more than 120 women had joined Mary, delivering education to communities in Brisbane, Adelaide, Geelong, Bathurst and Portland, and eventually to communities in places such as Yeoval and Stuart Town, near my home. Mary's life was not without its challenges: family tragedy; enduring a long and lonely journey to Rome to seek an audience with the then Pope, Leo XIII; interference by unhelpful clergymen; allegations of alcoholism; excommunication; ill health; and a split within the congregation. As an Australian I find it interesting that our first saint was excommunicated: it is a typical Australian attitude to stand up against the establishment.

The split within the congregation proved to be a benefit to families in New South Wales, as it was the catalyst for the congregation's expansion to the central business district of Sydney, followed by North Sydney, which was then home to the Catholic Teachers College and is now home to the North Sydney Campus of the Australian Catholic University, Belmore, Kincumber and on to Western Australia and eventually New Zealand. At the time of Mary's death in August 1909, 750 women had joined the congregation. They lived in around 106 houses including 12 institutions, which sheltered more than 1,000 people in need. There were 117 schools

attended by 12,409 pupils. Today the sisters can be found working in the Australian outback with indigenous communities, in South America with the Peruvian poor, and with disadvantaged communities in Brazil and East Timor.

Mary's motto for life was "Never see a need without doing something about it", a motto that is reflected in the work the sisters are involved in today—which is much more than just education. The sisters can be found working in aged care, supporting families and women in need, providing tertiary scholarships for Aboriginal and Torres Strait Islander students, and visiting families who are experiencing loss and those grappling with tragedy. The sisters also work in many Catholic parishes and can be found speaking out on behalf of those whose voices are not heard—the poor and the working class.

At the invitation of His Eminence George Cardinal Pell, I attended the canonisation celebrations in Rome. The celebrations included a number of official events, and I will list some of them for the benefit of the House. Australian Night at the Vatican Museum was hosted by His Excellency Ambassador Tim Fischer and the Embassy to the Holy See. The event included an exhibition of indigenous artefacts at the Ethnological Museum and was followed by a special performance of indigenous dance and music, with notable artist Will Barton performing on the didgeridoo. And I must say that His Excellency Ambassador Tim Fischer did an excellent job in representing Australia during the celebrations.

Team Australia trade talks were co-convened by Ambassadors David Ritchie and Tim Fischer. The talks were hosted by Peter Rayner, Deputy Head of Mission, Australian Embassy to Italy; Amanda Hodge, Consul-General and Senior Trade Commissioner; and Simone Desmarchelier, Consul-General designate. The trade talks included a presentation by Austrade on business linkages and opportunities for Australia in Italy. A number of Italian primary producers who are keen to establish businesses in rural and regional New South Wales will be meeting with me in the near future in order to identify areas of opportunity. Indeed, some of those companies are already here. I know that Italy is the great pasta country of the world. One Italian company is moving to the Riverina so it can produce pasta to export to Asia. We need to encourage that company. The Vigil Celebration of the Life of Mary MacKillop, the official vigil service anticipating Mary's canonisation, included a dramatisation of Mary's life performed by the Australian Catholic University and concluded with the entire auditorium singing *Waltzing Matilda*, a cappella.

The official canonisation ceremony was held on Sunday 17 October 2010 and presided over by Pope Benedict XVI at St Peter's Basilica. I attended that ceremony along with the Hon. Jenny Gardiner, MLC, and about half a million others, to celebrate the life and legacy of Saint Mary of the Cross MacKillop and five other saints. I am advised that on that day live sites across New South Wales were well attended, including Mary MacKillop Place in Mount Street, St Mary's Cathedral—with approximately 7,000 people in attendance—Wollongong, Epping, Carlingford, Wagga Wagga, Bathurst, Armidale, Goulburn and Parramatta. Following the canonisation, a solemn mass of thanksgiving, concelebrated by the Archbishop of Sydney, Cardinal George Pell, and other bishops, took place at the Basilica of St Paul's Outside the Walls. More than 5,000 people attended that mass, mostly Australians—from recollection it took approximately 15 minutes to distribute communion.

The mass of thanksgiving was unique in that the offertory procession featured only members from the indigenous communities where the sisters work today. They were not the elite of the church or the VIPs in attendance, but Aboriginals, East Timorese, Fijians and Peruvians—representatives from all the indigenous communities in which the nuns work today. The Cardinal gave an interesting homily, which cleverly interwove aspects of the lives of both Governor Lachlan Macquarie and Saint Mary, noting that on Governor Lachlan Macquarie's arrival at the colony of New South Wales in 1810, some 200 years ago:

... many of the convicts were Irish Catholics, who were flogged if they did not attend the Protestant service on Sunday and had no freedom to practise their religion. Although Macquarie laid the foundation stone for the first St. Mary's Church in Sydney in 1821, for most of the colony's first thirty years the public celebration of Mass was forbidden.

Like Saint Mary, "Macquarie ... encouraged education for Europeans and indigenous Australians". I also attended the Papal Audience, which lasted for almost two hours. During the audience the Pope gave many speeches in various languages, including English, French, Spanish, German, Polish, Portuguese and Italian. The audience concluded with the Pope imparting a blessing upon the crowd, which also extended to those at home who are sick or suffering. It would be remiss of me not to acknowledge the effort made by the Sydney Archdiocesan team for coordinating all of the events from travel, accommodation, ticketing and transport. I particularly place on record my gratitude to His Eminence Cardinal George Pell, Monsignor John Usher, Mr Danny Casey and Ms Emma McDonald. Saint Mary of the Cross MacKillop was a pioneer. She was the first

Australian to establish an order; the first nun to leave the city to go to the bush and minister to the poor, rural and working classes. It is most fitting that this pioneering woman should achieve another first in becoming this nation's first saint.

The Hon. JENNIFER GARDINER [11.32 p.m.]: In 1909 Cardinal Moran visited the dying Mary MacKillop and said on leaving her, "I consider this day I have assisted at the deathbed of a saint." In her lifetime, Mary MacKillop was recognised as an extraordinary Australian woman. Now, 101 years later, after painstaking analysis to establish whether she had practised virtue to a heroic degree, Pope Benedict XVI has added Mary MacKillop to the canon of saints of the Catholic Church. Whilst I was in Rome to attend the canonisation ceremony, one of the Sisters of St Joseph told me that by deciding Mary MacKillop needed her own website the sisters "had let her go"; she belonged to everyone—and so she does. Mary MacKillop's story can inspire anyone: Catholic and non-Catholic, believers or non-believers.

Born to Scottish immigrants in Melbourne, Mary MacKillop became a teenage breadwinner, including being a governess to her cousins at Penola Station, located near today's border between South Australia and Victoria. There, while living the normal life of a governess, she came to know Father Julian Tenison Woods, whose vast parish centred on Penola. What she started to do in that schoolroom resonated at the sublime mass of thanksgiving held at the Basilica of St Paul's Outside the Walls the morning after her canonisation: the first mass dedicated to Saint Mary MacKillop. The sound of a didgeridoo booming over the reputed burial place of Paul the Apostle was spine tingling, partly because it harked back to that schoolroom where Mary added children of station hands to her charges, as well as taking in an Aboriginal girl, to be taught.

Mary was a religious child. She developed a desire to provide free education to poor bush children—girls as well as boys. Her dream coincided with that of Tenison Wood, who encouraged her vocation. After a time teaching in Portland, Mary again met Tenison Woods and they discussed an outrageous plan for a congregation of sisters, starting in Penola in 1866, who would live in poor circumstances and work wherever there was a need, especially in rural areas. The Sisters of the Sacred Heart were established. Their first schoolhouse was a refurbished stable. This was in an age of bigotry, with discrimination against Catholics, but from the start Mary MacKillop had non-Catholic and Catholic benefactors.

Mary moved to Adelaide. The sisters took the vows of poverty, chastity and obedience, and Mary took the name of Sister Mary of the Cross. The order took off like wildfire, providing teaching in the three Rs and religion to poor children without payment. This work was extended to helping the destitute and abandoned old people. She said her work was "for the poor of all Australia". Within about three years 60 women were working in schools, orphanages and women's refuges. Tenison Woods and Mary MacKillop agreed that the order should be governed centrally and be free to go anywhere in the colonies where they saw a need, and not be confined by diocesan boundaries. This idea was destined to cause trouble with the bishops. Some of those troubles led to Mary's dramatic, albeit brief, excommunication for supposed disobedience, which the Hon. Tony Kelly referred to. The way she accepted her ejection from the church, and the sacking of many of the sisters, was a demonstration of her remarkable capacity for forgiveness.

Alone, Mary went to Rome to seek the help of Pope Pius IX on central governance and the rule of the institute. Australian bishops were concerned only about authority and in the new rule the Holy See left authority where it had been from the beginning: in the hands of a superior general. The Bishop of Brisbane wrote of the formation of this rule as "hardly woman's work" and described Mary as "this sentimental young lady who is now only 32 years of age". When the Bishop of Bathurst was working against her, she wrote that she could not think "that all things done towards us lately in Bathurst were either just or kind". That was about as angry an expression as she allowed herself. Of her disagreement with the Bishop of Brisbane she wrote:

No words can tell what a time of suspense and trouble we have had here ... I often feel inclined to envy my quiet country sisters who have the same daily routine and so much peace whilst I am one day in a rough mail coach, again in a steamer, in rain and storm, but worse than all, when I have to see bishops and priests, and, in the cause of our loved work, have to hold out against all their arguments and threats ... I have been threatened with the police and forcible detention in another convent, anything rather than allow me to our own ... This bishop is a terrible man to deal with. ... Yet [she said] he can be frightened in the end.

Whilst waiting for the Holy See's finalisation, Mary visited religious communities on the Continent, Scotland, England and Ireland, studying various teaching methods as she went, collecting books and supplies for Australian schools, recruiting for the sisters, as well as giving the Jesuits a hand. From France she wrote to the sisters:

The good religious I meet often talk of you all, and many look upon our mission with a kind of Holy envy, but admit that they would not have courage for its privations.

Mary suffered from chronic ill health. On one occasion she was so sick that she could not keep an appointment with the Pope. But at home more troubles were in store. She was ordered to quit Adelaide for Sydney, where she was deposed as the Mother General. The sisters were not free to elect her as their superior until 1899, which they did. She held that position until her death. Regardless of these vicissitudes, Mary retained respect for the bishops and priests, and encouraged her sisters to do the same. At the age of 60, while in New Zealand, Mary suffered a stroke. Her health improved for a while but by 1905 she was deteriorating; she suffered heroically for four years. Mary died peacefully on 8 August 1909. Italians I met in Rome were very impressed that three Popes have prayed at her tomb. Of all the virtues, her contemporaries most often recall her kindness to others, orphans, beggars, her sisters—everyone. Cardinal Moran also said that her death would bring many blessings, and so it is that the Sisters of St Joseph of the Sacred Heart still work for the needy in Australasia, South America, Ireland, Scotland and East Timor.

I am grateful that through the good offices of the Hon. Tony Kelly, the Leader of the Opposition Mr Barry O'Farrell, the Archbishop of Sydney Cardinal Pell and Australia's indefatigable ambassador to the Holy See the Hon. Tim Fischer, AC, and with the forbearance of my colleagues I was able to be in Rome as part of a bipartisan delegation. It was a highlight of my life, the memories of which I will keep forever. MacKillop and her band of sisters set up a mighty part of our education system and provided other social services to the needy. It was appropriate that there was a parliamentary observance of the canonisation of Australia's first saint. MacKillop did not often write of politics, but after Federation she called her sisters' attention to their civic duty to enrol to vote. If they needed advice they could get it from wherever they chose, she said, but they should keep their voting secret. Then she issued this warning about voting, "Every so-called Catholic is not the best man."

It is true I was born in Penola. To relocate Judith Wright's expression, Penola and the south-east of South Australia is my blood's country. My great-grandparents, the Kennedys and the Rogers, lived in a little homestead at Kalangadoo in which Julian Tenison Woods said mass. They knew Mary MacKillop when she lived in Penola. My grandmother Kate Gardiner was for many years a devout member of the congregation of St Joseph's Church in Penola. On a recent New Year's Eve my family was at Penola's Royal Oak Hotel, an important place in the MacKillop story. There we met Father Paul Gardiner. For 27 of the last 30 years he was the postulator for MacKillop's cause for sainthood and her biographer. He told me, "Mary will be canonised. We just have to be patient." In his eyes though there was the question: Would it happen in his lifetime? It was very special to see him concelebrating at the canonisation, his job gloriously accomplished. It was also special to meet the final postulator for Mary's cause, Sister Maria Casey, who finished Father Gardiner's work when he retired. She is another of those humble, talented leaders of Mary's congregation, imbued with kindness and extending it to strangers, like me, in Rome. I also pay tribute to the volunteers at the Mary MacKillop Penola Centre, headed by Claire Larkin, for their years of work ensuring the MacKillop story is accessible to the growing number of pilgrims to that wonderful town.

At St Paul's Outside the Walls, Sister Anne Derwen, the thirteenth of Mary's successors as leader of her order, challenged the thousands there to reflect upon the difference that having been in Rome for the canonisation would make to their lives. I reflected on a recent briefing at the University of New England on programs developed there to try, with some success, to close the country-city disparity in literacy and numeracy outcomes for students, including indigenous children. It is obvious that despite Mary MacKillop's great works, starting as a lay person in that schoolroom amidst the red gums and swamps of Penola Station and then with her sisters in town, a lot of work remains to be done. To best honour St Mary MacKillop's astonishingly radical vision, the profound legacy of good works and now her place as one of the greatest of Australians, we must redouble our efforts to limit such gaps once and for all.

DISTINGUISHED VISITORS

The PRESIDENT: I acknowledge the presence in the President's gallery of guests of the Hon. Marie Ficarra—Mr Xiang Zongxi, Chairman, Ningxia Committee, Ningxia Hui Autonomous Region of the People's Republic of China, and members of his delegation. They are here today to learn the history of the New South Wales Parliament and to gain an overview of the economic and foreign trade situation in New South Wales. I welcome them to the Chamber.

BUSINESS OF THE HOUSE

Postponement of Business

Government Business Notice of Motion No. 1 postponed on motion by the Hon. Tony Kelly.

BUSINESS OF THE HOUSE

Suspension of Standing and Sessional Orders: Order of Business

Dr JOHN KAYE [11.43 a.m.]: I move:

That standing and sessional orders be suspended to allow a motion to be moved forthwith that Private Member's Business item No. 262 outside the Order of Precedence, relating to a further order for papers regarding Tillegra Dam, be called on forthwith.

The Hon. ROBYN PARKER [11.44 a.m.]: I speak on behalf of the Liberal-Nationals Coalition and indicate our support for this call for papers, which is an attempt to provide transparency in relation to Tillegra Dam and to obtain answers about consultancies and feedback. We are happy to support Dr John Kaye's call for more information about Tillegra Dam, a dam that is not necessary and not needed. On the information we have received so far, the dam proposal does not stack up.

The PRESIDENT: Order! The Hon. Robyn Parker should speak to urgency at this stage.

Reverend the Hon. Dr GORDON MOYES [11.45 a.m.]: On behalf of Family First I support the call for urgency. This matter has been raised constantly in the House for many months. In relation to calls for papers, we have received a limited supply of information. Important responses to reports have just been given to Hunter Water. It is urgent that we are able to examine those responses.

The Hon. ROBERT BROWN [11.45 a.m.]: The Shooters and Fishers Party cannot support this request for urgency. The House has a great deal of business to deal with today, not least of all the election funding reforms. We should not waste the time of the House arguing about the presentation of papers on an issue that has been just about flogged to death. I do not consider that this is an urgent matter at all.

The Hon. GREG DONNELLY [11.46 a.m.]: The position of the Government is that we will not support the urgency motion. We concur with the arguments of the Hon. Robert Brown. The Government wishes to deal with a number of items of business today. We do not believe that this matter deserves precedence.

Question—That the motion be agreed to—put.

The House divided.

[In division]

The PRESIDENT: Order! I remind members that whilst in the Chamber they should not use mobile phones to take or receive calls. If members continue to do so they will be placed on a call to order. In response to an inquiry from the Hon. Catherine Cusack, I rule that the taking of photographs in the Chamber with a mobile phone is a prohibited activity.

Ayes, 21

Mr Ajaka	Mr Gay	Mrs Pavey
Mr Clarke	Dr Kaye	Mr Pearce
Mr Cohen	Mr Khan	Mr Shoebridge
Ms Cusack	Mr Lynn	
Ms Faehrmann	Mr Mason-Cox	
Ms Ficarra	Reverend Dr Moyes	<i>Tellers,</i>
Mr Gallacher	Reverend Nile	Mr Colless
Miss Gardiner	Ms Parker	Mr Harwin

Noes, 20

Mr Borsak	Mr Kelly	Ms Sharpe
Mr Brown	Mr Moselmane	Mr Veitch
Mr Catanzariti	Mr Obeid	Mr West
Ms Cotsis	Mr Primrose	Ms Westwood
Mr Foley	Mr Robertson	<i>Tellers,</i>
Ms Griffin	Ms Robertson	Mr Donnelly
Mr Hatzistergos	Mr Roozendaal	Ms Voltz

Question resolved in the affirmative.

Motion agreed to.

Order of Business

Motion by Dr John Kaye agreed to:

That Private Members' Business item No. 262 outside the Order of Precedence be called on forthwith.

TILLEGRA DAM

Production of Documents: Order

Dr JOHN KAYE [11.53 a.m.]: I seek leave to amend Private Members' Business item No. 262 outside the Order of Precedence by omitting "14 days" and inserting instead "21 days".

Leave granted.

Motion by Dr John Kaye agreed to:

That, under Standing Order 52, there be laid upon the table of the House within 21 days of the date of the passing of this resolution the following documents not previously provided to the House relating to Tillegra Dam:

- (a) all documents in the possession, custody or control of the Department of Planning or NSW Office of Water created since 1 September 2010,
- (b) all documents in the possession, custody or control of Hunter Water Corporation created since 1 April 2010, and
- (c) any document which records or refers to the production of documents as a result of this order of the House.

Pursuant to sessional orders business interrupted at 12 noon for questions.

QUESTIONS WITHOUT NOTICE

DELAY IN PROBATIONARY CONSTABLE CLASS GRADUATION

The Hon. MICHAEL GALLACHER: I direct my question without notice to the Treasurer. Is the Treasurer aware that the attestation date for the next class of graduates from the Goulburn Police College has been delayed from December until January? What will be the impact on the State budget of the decision to delay the graduation of probationary constables until closer to the 2011 State election? Given the additional budgetary pressures of such a large graduating class, was the Treasurer consulted about the decision and have extra funds been allocated?

The Hon. ERIC ROOZENDAAL: I am happy to refer that question to the Minister for Police.

LAND AND ENVIRONMENT COURT OPERATIONAL FRAMEWORK

The Hon. CHRISTINE ROBERTSON: My question is directed to the Attorney General. What is the latest information on the Land and Environment Court's operational framework?

The Hon. JOHN HATZISTERGOS: The recent Asia-Pacific Courts Conference in Singapore held on 4 to 6 October 2010 confirmed that the Land and Environment Court of New South Wales is the first court in the world to fully implement the International Framework for Court Excellence, and in the manner intended by the framework. The Chief Judge of the Land and Environment Court, the Hon. Justice Brian Preston, attended the conference and presented a paper narrating how the court had embraced the framework. Within weeks of the launch of the framework in 2008, it was pounced upon by the Land and Environment Court. The court viewed the framework as providing a useful methodology and, indeed, a vehicle for raising its continuing pursuit of court excellence to the next level. In adopting the framework, the court sought to assist in evaluating the utility of the newly developed framework and to energise the court's own evolution.

The court constituted a self-assessment team comprising 21 members of the court—five judges, eight full-time commissioners, six acting or part-time commissioners and two registrars. One of the first priorities for

the planning committee was to draft and adopt a vision or mission statement expressing the court's fundamental purpose and values. The adopted vision statement is: The court's purpose is to safeguard and maintain the rule of law; equality of all before the law; access to justice, fairness, impartiality and independence in decision-making; processes that are consistently transparent, timely and certain; accountability in its conduct and its use of public resources; and the highest standards of competency and personal integrity of its judges, commissioners and support staff.

The Land and Environment Court's work in implementing the framework attracted considerable interest and acclaim at the conference and it was cited by a number of speakers as a model of an excellent court. Two awards were bestowed recently upon the court in recognition of its leadership in court excellence. The Australasian Institute of Judicial Administration awarded Justice Preston a commendation for his work in implementing the International Framework for Court Excellence and on 18 September 2010 the Asian Environmental and Compliance Network presented Justice Preston with a plaque of appreciation in recognition of his outstanding leadership and commitment in promoting effective environmental adjudication in Asia. The Asian Environmental and Compliance Network is an international organisation of national and sub-national government agencies from Asian countries that are committed to improving compliance and enforcement of environmental laws through regional cooperation and information exchange.

One of the key activities over recent years has been strengthening the capacity of Asian judiciaries for environmental adjudication. Since 2005, the Land and Environment Court of New South Wales has been sharing best practices and lessons learned with the Thai Courts of Justice to strengthen the courts' institutional arrangements and to build judicial capacity. These awards represent both national and international recognition of the Land and Environment Court's excellent work. I congratulate the Land and Environment Court for being the first court in the world to implement the International Framework for Court Excellence and I commend the Chief Judge, the Hon. Justice Brian Preston, for his leadership and foresight and his team of judges, commissioners, registrars and other staff for their hard work in achieving such an outstanding outcome.

DOYLES CREEK TRAINING MINE

The Hon. DUNCAN GAY: I direct my question to the Minister for Planning. Is the Minister aware that former Construction, Forestry, Mining and Energy Union head John Maitland has recently cashed in another \$1.3 million for the sale of his shares in Doyles Creek Training Mine on top of the \$1.2 million that he has already made? Is the Minister aware that last week Nucoal issued formal letters of demand, giving landowners seven days to provide access to their properties? Is he also aware that it has been more than six weeks since he promised to look at the Doyles Creek Mine Probity Report and seek further information from the department? Given these recent developments, can the Minister now tell the House whether he has made any decision about rejecting this mining licence?

The Hon. TONY KELLY: In response to the first few questions, I am not aware of the matters referred to by the Leader of The Nationals. However, I am still awaiting advice from the department.

ELECTRICITY INDUSTRY PRIVATISATION

Dr JOHN KAYE: My question is directed to the Treasurer. Is it correct that the Supreme Court granted an injunction yesterday blocking the release of confidential information about electricity contract prices to potential bidders in the electricity privatisation process? If that is correct, is it not true that that is a substantial component of the costs of any bidder looking at the resources of Delta and that it will prevent them from being able to make a proper bid? Is it not therefore also correct that the electricity privatisation process, at least in respect of the gentraders, is now over?

The Hon. Greg Donnelly: Point of order: My point of order is straightforward. The member is seeking an opinion from the Minister.

The PRESIDENT: I would like to see the question.

Dr John Kaye: Unfortunately I cannot provide it because it was off the cuff. I made it up on the run.

The Hon. Eric Roozendaal: You said it—you made it up!

Dr John Kaye: Of course one makes up questions. If the Treasurer serves on the Opposition benches, he might find out what happens. I am prepared to repeat the question to the best of my ability.

The PRESIDENT: Order! Is the member making a contribution to the point of order?

Dr John Kaye: To the point of order: I was not seeking an opinion; I was seeking from the Treasurer factual information about the implications of the court decision.

The Hon. Greg Donnelly: Further to the point of order: That was not the substance of the question. The member was clearly asking for an opinion.

The PRESIDENT: Order! The question seeks an opinion from the Treasurer and is therefore out of order.

LOWER HUNTER BUS SERVICES

The Hon. PENNY SHARPE: I address my question to the Minister for Transport. Can the Minister inform the House about the significant improvements that have been made for bus commuters in the Lower Hunter?

The Hon. JOHN ROBERTSON: I thank the member for her question and ongoing interest in transport, in particular for the people of the Hunter. The New South Wales Government has announced that from 28 November the Lower Hunter will receive 33 new buses and more than 1,000 extra bus services a week. This massive boost in bus services follows an extensive review of the existing networks across the region. The changes will increase bus services to towns and centres including Wallsend, Maitland, Singleton, Raymond Terrace, Nelson Bay, Newcastle, Glendale, Toronto, Cessnock and Morisset, to name just a few. Under the changes there will be more late-night services, more weekend services and more buses running in the morning and evening peaks. The addition of 33 new buses is equivalent to a 10 per cent increase in the size of the total bus fleet in the Lower Hunter. The new buses represent a \$13 million investment in public transport for the region. All the new buses will be air-conditioned and low floor wheelchair accessible so that people with mobility constraints, the elderly and mums with prams can get on and off easily.

Passengers in the Lower Hunter will notice a huge increase in services across the network. For example, we will be introducing a new cross-regional link between Newcastle airport, Raymond Terrace and Stockland-Greenhills via Woodberry running seven days a week. There will be extra weekday services between Toronto, Glendale and the University of Newcastle. The Government will also double the number of services running between Maryland and Wallsend, extending to Stockland, Jesmond and the University of Newcastle. The local town service in Cessnock, the Cessnock Hoppa, will now operate five days a week instead of three and the number of peak services between Raymond Terrace and Newcastle will be doubled. For residents of the Maitland area, there will be more buses to new residential estates at Aberglasslyn and Rutherford, more buses to Thornton and Woodberry and new evening and weekend services on a number of routes. The bottom line is that across the Lower Hunter there will be more buses, more bus drivers and more services for local people. These changes will make it easier for workers, students, mums and pensioners to use public transport. The changes will support jobs for the lower Hunter, with operators estimating an extra 30 drivers will be needed to run the new bus network.

The community has been heavily involved in the development of the new services for the lower Hunter. More than 850 submissions were received from local residents and public transport users during the consultation period. To maximise the input from the community we set up a website and a 1800 number, letterboxed local residents and distributed brochures on buses and at local councils, libraries, shopping centres and offices of members of Parliament. We have listened to the community's feedback and have incorporated many of their requests into the new bus network.

For example, following feedback from the community we will introduce a new evening and weekend service from the Maitland area to replace the current on-call bus service. In the Cessnock area, a new weekend service will be provided between Cessnock, Kurri Kurri and Morisset because residents told us they wanted better access to the train station to connect to Sydney and to the Central Coast. These changes will make a huge difference for local people in the lower Hunter. This Government will roll out more than 1,000 new growth buses to communities across New South Wales over the next 10 years. I look forward to continuing these regular updates to the House on improvements to bus services for the people of New South Wales.

WESTMEAD HOSPITAL EMERGENCY DEPARTMENT

Reverend the Hon. Dr GORDON MOYES: I ask the Attorney General, on behalf of the Minister for Health, is he aware that Parramatta Lord Mayor John Chedid recently waited for five hours in Westmead's

emergency department with a ruptured appendix, without being seen? Is the Minister aware that Mr Chedid advised triage that he had been suffering from abdominal pain for five consecutive days and had a letter from his general practitioner that he should receive urgent attention? Is the Minister aware of Westmead emergency department staff advice that Mr Chedid was not in obvious pain and therefore was classed as low priority? In June this year a spokesperson for NSW Health advised that just under 60 per cent of everyone attending emergency departments spend less than four hours waiting, with 75 per cent spending less than six hours. Can the Minister indicate the current figures on hospital waiting times and the reason Mr Chedid was not seen for five hours when presenting with an obvious emergency?

The Hon. JOHN HATZISTERGOS: I will refer the matter to the Minister for Health.

POPULATION GROWTH PROJECTIONS

The Hon. GREG PEARCE: I direct my question to the Minister for Planning. Is the Minister aware of serious discrepancies between Department of Planning population projections and the Australian Bureau of Statistics actual growth statistics and the implications such variations may have for infrastructure and services required to meet future population growth? What assurances can the Minister give to the people of New South Wales that the Government can handle growth to almost 9 million people by 2036? Can the Minister give an explanation to the people of regional New South Wales, such as in Gunnedah where I met several councillors and The Nationals candidate Kevin Anderson who voiced their concerns about the lack of action arising from the discrepancy between Department of Planning predictions, which forecast a decline in population of 4.9 per cent when the reality has been a growth of 4 per cent? How will the Government meet the resulting shortfall in infrastructure, services and dwellings?

The Hon. Trevor Khan: 4,300 pre-selectors, Christine.

The PRESIDENT: Order! Such comments are out of order.

The Hon. Eric Roozendaal: They are all sheep over there.

The Hon. Duncan Gay: Point of order—

The PRESIDENT: Order! A member may not take a point of order on an interjection.

The Hon. Duncan Gay: He called the people of Gunnedah sheep.

The Hon. Eric Roozendaal: I called The Nationals sheep.

The PRESIDENT: Order! I remind members of the Opposition that interjections are disorderly at all times. If members continue to interject, I will call them to order. Any member who is called to order three times will be escorted from the Chamber.

The Hon. TONY KELLY: One does not have to be Einstein to work out that there will be significant increases in the population over the next 25 years. I will recount a statistic I heard just recently that in Great Britain in 1900 the average life expectancy of males was 43. It is now probably about 73. So, one does not have to be Einstein to work out that in a space of time there will be a significant increase in population purely because of the fact that we will live longer. Statistics the Department of Planning has put out support this. Statistics show that over the next 25 years, the population increase for those between the ages of one and 18 is likely to be 19 per cent. The population increase for those between the ages of 19 and 64, over that 25-year period, is likely to be in the order of 22 per cent, and the population increase over that same period for those above 65 is likely to be 222 per cent. That is because of significant medical improvements.

Professor John Shine—one of Australia's foremost cancer researchers at St Vincent's Hospital's Garvan Institute—said recently that cancer is likely to be a thing of the past in the next decade. Even if he is only half right, we are going to have significant increases in population, and that is why the Department of Planning is making sure it plans with all the councils in the State for increases in population and in housing. That may mean that we will need different styles of housing. Perhaps the older population will need more single-person units and more seniors living accommodation. Every opportunity I get—and I thank the honourable member for this opportunity—I try to explain to people the importance of providing for adequate housing across the State, whether it be in regional and rural New South Wales—

The Hon. Greg Pearce: Point of order: My point of order is relevance. My concern was why the department's figures for Gunnedah predict decline, having regard to what the Minister just said.

The PRESIDENT: Order! The Minister will continue to be generally relevant.

The Hon. TONY KELLY: I am reminded of a statistic mentioned to me by my colleague the Hon. Peter Primrose that there are now more people over the age of 65 than there are under the age of 15 in the State. As I was saying, it is important that we make sure, right across the State, that we provide for population increase, and that includes in rural and regional areas—particularly the coastal areas but also the rural and regional areas and the significant town centres across the State.

ELECTRONIC HOUSING CODE PROJECT

The Hon. KAYEE GRIFFIN: I address my question to the Minister for Planning. Will the Minister please update the House on what the Government is doing to make the New South Wales housing code more efficient and user friendly?

The Hon. TONY KELLY: The New South Wales Government is committed to delivering—for the same reason I just talked about—faster approval processes for complying development applications, to deliver real time and cost savings to industry and the local community. In 2009, the Federal Government awarded the New South Wales Department of Planning \$5.92 million in funding for the electronic housing code project. Following an agreement signed between the departments of planning and services, technology and administration of the Commonwealth, an online system will be trialled for complying development applications on blocks of land over 450 square metres. It will be trialled in 12 council areas across the State. They include Bankstown, Blacktown, Gosford, The Hills, Lake Macquarie, Liverpool, Port Macquarie-Hastings, Rockdale, Shellharbour, Sutherland, Tamworth and Tweed. Also, 10 accredited certifiers are involved in the project, to demonstrate the capacity for the system to be used by non-government parties.

I am pleased to say this program is a partnership between the Department of Planning and the Local Government and Shires Associations of New South Wales. The electronic housing code project is important because it meets key State Plan objectives for faster planning decisions and improved housing affordability. The project will deliver a simpler, consistent, standardised application process for development applications. While the New South Wales housing code is already delivering streamlined, 10-day approvals for people wanting to undertake routine developments that meet relevant criteria, the electronic housing code takes these efficiencies further.

Once the system is implemented early next year, individuals will be able to investigate development options available to them on their properties without requiring a detailed understanding of the State-based code. The system will provide a guided process for a standard complying development application. There will be a convenient 24/7 online lodgement facility for complying development applications. Applicants will be able to track their applications, and government will have the ability to monitor the approval times for complying development applications.

The standardised, guided application process will mean certifiers spend less time chasing missing information, and shorter approval times will result. It is also important to ensure that the new ePlanning initiatives are cost effective by using existing government capacity and technologies. In this regard the electronic housing code will use the New South Wales Government Licensing Service, known as the GLS. This system currently manages the 75 different online licence types, such as liquor, recreational fishing and home building, for a number of New South Wales government departments. The Government Licensing Service processes more than 100,000 online applications, renewals and amendments each month. The New South Wales Land and Property Management Authority will also be a major contributor, providing authoritative statewide property identification information. The electronic housing code project demonstrates the power of New South Wales government agencies working together to deliver benefits for our communities.

WATER DESALINATION PLANT

Reverend the Hon. FRED NILE: I ask a question without notice of the Minister for Planning in his own capacity, and representing the Minister for Water. Are the costs of the desalination plant being offset by an additional levy on all Sydney water consumers? Are consumers who reside outside the Sydney metropolitan area currently contributing to the funding of the plant? If so, who and by how much? Why were the collection

pipes constructed so close to the waste outfall pipes and will these pipes be further extended to prevent pollution? Can the Government guarantee that the water produced through the plant will be of the highest quality for safe human consumption?

The Hon. TONY KELLY: I thank Reverend the Hon. Fred Nile for his question and undertake to pass it on to the Minister concerned and obtain a speedy reply.

WSN ENVIRONMENTAL SOLUTIONS LAND

The Hon. CATHERINE CUSACK: I direct my question without notice to the Minister for Planning. What steps has he taken as Minister for Planning to ensure that land owned by WSN Environmental Solutions for the purposes of Sydney's present and future waste needs is going to be preserved for such purposes and not able to be sold off in an asset stripping exercise following the Roozendaal privatisation of this valuable public asset?

The Hon. TONY KELLY: I am currently going through a process with Waste Management Services of looking at some of their lands. I will report back to the House when I have a final answer.

WESTERN SYDNEY AND CENTRAL COAST JOBS

The Hon. SOPHIE COTSIS: I address my question to the Treasurer, Minister for State and Regional Development. Can he update the House on the New South Wales Government's efforts to create new jobs in western Sydney and the Central Coast?

The Hon. ERIC ROOZENDAAL: I thank the honourable member for her question and interest in this matter. I want to do my customary warning for the Opposition because yet again we have more good news for the New South Wales economy. I am pleased to report to the House that those green shoots just keep growing in the New South Wales economy. I am pleased to report to the House that the New South Wales Government has helped secure two major manufacturing investment projects for the State, which will create 140 jobs and bring investments worth \$260 million. Yesterday marked the official opening of the new Bluetongue Brewery at Warnervale on the Central Coast. This project has delivered an investment of \$120 million to date and will deliver an additional investment of \$30 million and more than 100 jobs over six years.

It saddens my heart when the Opposition always tries to talk down the State economy. Every time I come up with more good news about investment and jobs created for this State, the Opposition seeks to heckle and talk it down. That is a consistent pattern from the usual suspects on the Opposition benches, who do not care about the future of this State. They just want to talk down New South Wales. While I am on the subject of good news for the State, I have the latest data from the Australian Bureau of Statistics hot off the press—it is still warm from the printer—which has the latest mortgage finance commitment numbers—14,311 new mortgages have been taken out. On a trend basis, we can see for owner occupation that in New South Wales there was a 1 per cent trend growth, which is higher than the national average. This is further evidence that the State's economy is moving along.

Every time I stand here and give good news about what is happening in New South Wales, members opposite cringe, look into their laps or walk around. The Hon. Greg Pearce pretends to be reading because he knows the truth about the State economy. The Hon. Catherine Cusack just stares blindly—God knows where she is. I will continue to talk up the State's economy and to be proud of the new investment and jobs because the Labor Party is about investment and jobs. Earlier I interjected about the sheep in The Nationals who blindly follow the likes of the Hon. Duncan Gay because they do not understand the damage they are trying to do to this State.

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

The Hon. ERIC ROOZENDAAL: At Minto in western Sydney global agribusiness company Viterra is establishing a \$110 million malt house and container packing facility, which will create at least 40 new jobs. I am proud to say that the New South Wales Government worked with both Bluetongue and Viterra to secure these investment projects and jobs for our State. It is a significant investment in this \$4.6 billion industry. These two new investments will help generate further business and jobs for this growing industry sector. Through

Industry and Investment NSW, the New South Wales Government has helped secure the Bluetongue Brewery for the Central Coast against competition from Victoria and Queensland. New South Wales Government assistance was provided for planning processes as well as financial assistance.

The three-stage Bluetongue Brewery development will eventually allow for production of up to 150 million litres of beer a year for Australian markets. The Bluetongue Brewery includes the latest brewing technology, enabling the production of a variety of beer styles. The brewery is also fitted with \$10 million worth of water and energy saving technology and infrastructure. The malt house and container packing facility being developed by Viterra at Minto will produce up to 110,000 tonnes of malt each year for Australian and international brewers. It will also include an adjacent container packing facility that will handle a further 147,000 tonnes of grain each year. [*Time expired.*]

The Hon. SOPHIE COTSIS: I ask a supplementary question. Can the Minister provide further information on the Government's initiatives to create jobs in western Sydney and the Central Coast?

The Hon. Don Harwin: Point of order: Supplementary questions are only in order when they request that a Minister elucidate an aspect of the particular answer they have already given. That was not the terms in which the honourable member asked the supplementary question. She actually asked for further information that one can only presume was not canvassed in the earlier part of his answer.

The Hon. Greg Donnelly: To the point of order: There was a lot of noise in the Chamber at the time. I clearly heard the honourable member say additional information, relating obviously to the answer given by the Minister, so the supplementary question was directly related to the question.

The PRESIDENT: Order! Members who want to contribute to debate on the point of order should seek the call, not call out from their seats on the backbenches. If there is no further discussion on the point of order, I rule that the question is in order.

The Hon. ERIC ROOZENDAAL: The Opposition will use every trick in the book. We know when they wheel out the Hon. Don Harwin to make a point of order that they are getting desperate to try to silence the good news of the New South Wales economy—the green shoots of recovery, which are about jobs and investment in New South Wales. When they wheel out the Hon. Don Harwin, they are wheeling out the heavy guns to try to silence us. We will not be silenced about the good news of the State economy. In relation to Viterra at Minto, there will be an adjacent container packing facility that will handle a further 147,000 tonnes of grain each year. This company is the largest producer of malt in Australia and currently produces 500,000 tonnes a year. The new Minto facility will produce an ongoing source of business for New South Wales barley growers and contribute to the New South Wales food processing and export base.

The Hon. Catherine Cusack: You're in the wrong place; you have to go over it again.

The Hon. ERIC ROOZENDAAL: You are on your own little planet—come back from the Catherine Cusack planet.

The PRESIDENT: Order! I call the Hon. Catherine Cusack to order.

The Hon. ERIC ROOZENDAAL: The Viterra facility is strategically central to road and rail connections to Port Botany, the Australian Railtrack Corporation's main Sydney to Melbourne rail line, and adjacent to the Macarthur Intermodal Shipping Terminal. This is more good news for the State economy, and I look forward to updating the House and the people of New South Wales on more good news in the future.

WIND FARM APPLICATION AND PLANNING REFORM FEES

Mr DAVID SHOEBRIDGE: My question without notice is directed to the Minister for Planning. What is the justification for the Department of Planning charging application and planning reform fees for wind farm projects across this State that greatly exceed the actual costs of the department undertaking the assessments under part 3A?

The Hon. TONY KELLY: The Department of Planning and the New South Wales Government brought in new policies particularly for new energy resources in the State such as wind farms and natural gas generation projects. We have actually reduced the fees for those projects, and we have guaranteed that we will

ensure that the decisions in relation to fees are completed very quickly. So I cannot understand what Mr David Shoebridge is talking about. He simply makes accusations. The department, so far as I am aware, does not necessarily get back from the fees all of its operation costs, although it does get a significant amount back. As I have said, however, we have reduced the fees, particularly for those green types of power generation.

Mr DAVID SHOEBRIDGE: I ask a supplementary question. Can the Minister guarantee the House that the new fees, under any new guidelines, will be limited to cost recovery?

The Hon. Eric Roozendaal: Point of order: That is not a supplementary question. It is a new question, and clearly it should be ruled out of order.

Mr DAVID SHOEBRIDGE: I was simply seeking further information in relation to the answer given by the Minister about the new fees and guidelines.

The Hon. John Hatzistergos: To the point of order: The initial question related to existing fees. The supplementary question asks for a guarantee in relation to future fees.

The Hon. Duncan Gay: To the point of order: The Minister in his answer referred to future fees. The idea of a supplementary question is to elicit information further to that referred to in the answer.

The PRESIDENT: Order! I rule that the question is in order. The Minister may reply.

The Hon. TONY KELLY: As I said earlier, the Government has already reduced the fees for these types of environmental development applications, to encourage such applications. I cannot guarantee what fees will be charged by this Government, or any future government. That is a matter for budget committees and budget processes in the future.

ELECTRICITY ASSET SALES

The Hon. MATTHEW MASON-COX: My question without notice is directed to the Treasurer. Will he confirm or deny that companies specialising in financially distressed assets, or so-called "vulture funds", have registered an interest in the State's electricity assets? Will the Treasurer confirm that he will set "individual asset" as well as "total proceeds" reserve prices for the sale of the assets? Will the Treasurer also confirm that he will not expose the State to long-term credit ratings less than triple-A through the sale of these assets?

The Hon. ERIC ROOZENDAAL: I thank the Hon. Matthew Mason-Cox for his question. It is pretty obvious that he did not write that question himself. Anyone who understands the history of the Energy Reform Strategy would understand that the reason we have embarked on the energy reforms strategy is to protect the State's gold-plated triple-A credit rating. I think it is worthwhile reminding the House, and indeed the Hon. Matthew Mason-Cox, that at the time I became Treasurer we were in the middle of the global financial crisis and the credit rating of New South Wales was on negative outlook. Here we are post the global financial crisis and New South Wales now has a stable triple-A credit rating—in other words, we improved our credit rating during the global financial crisis.

The Energy Reform Strategy was undertaken to ensure that the challenge of financing future power generation for New South Wales would move from being the responsibility of the taxpayers of New South Wales to being that of the private sector. That is a clear objective of the Energy Reform Strategy. I can report to the House that of course there will be retention values set for all the assets. I have said this consistently, and the Hon. Matthew Mason-Cox should be well aware of that. We will ensure that we protect the credit rating of this State. That is and has been a key strategy of this Government.

[Interruption]

If we do not take on the responsibility of protecting the credit rating of the State, we will end up like Queensland, which is now paying around \$200 million a year in additional interest charges because it lost its triple-A credit rating. Or we will end up like South Australia, which has had to cut services to try to protect its triple-A credit rating. We will ensure that we protect our State's triple-A credit rating, that the transaction continues, and that we protect the interests of the taxpayers of this State.

SPINAL INJURIES

The Hon. HELEN WESTWOOD: My question is addressed to the Minister for Disability Services. Will the Minister update the House on what the New South Wales Government is doing to support Spinal Injuries Awareness Week?

The Hon. PETER PRIMROSE: I thank the Hon. Helen Westwood for her question. The Keneally Government is committed to providing assistance to people in New South Wales who have a spinal cord injury. Recent initiatives have included the introduction of legislation and a no-fault scheme for people seriously injured in motor vehicle accidents, and a very significant increase in the number of funded attendant care places. The Lifetime Care and Support Authority of New South Wales, established in 2006, provides lifelong treatment, rehabilitation and attendant care for people who have a spinal cord injury, a moderate to severe brain injury, multiple amputations, serious burns or blindness from a motor accident in New South Wales. This scheme has enhanced the life opportunities and support of eligible clients who are seriously injured, regardless of fault.

The New South Wales Government funds the Attendant Care Program and the High Need Pool. Both programs provide high-level personal assistance to people with a physical disability or who need physical assistance to increase or maintain their independence at home and in their own community, and to prevent their premature admission to residential care. The New South Wales Government has significantly enhanced the Attendant Care Program, with more than 279 per cent growth in the number of places since the Spinal Injury Forum in 2003, and has more than doubled the number of places under Stronger Together, a 10-year plan to improve disability services.

The Attendant Care Program and the High Need Pool now support more than 1,280 people with a physical disability across New South Wales. Thirty-seven per cent of individuals receiving an Attendant Care Program package of services and 8 per cent of individuals receiving high-level Home and Community Care Program services through the High Need Pool have a spinal cord injury. Under Stronger Together, the Attendant Care Program has grown from 314 places in 2005-06 to 812 places in 2009-10. Collaboration between Ageing, Disability and Home Care and NSW Health to jointly fund and support people in the Adult Home Ventilation Program is also benefiting people with severe spinal cord injuries. The Adult Home Ventilation Program provides assistance to adults who require mechanical ventilation 24 hours per day, are medically stable and are assessed as suitable for discharge from hospital.

The Attendant Care Program Guidelines were revised in 2009 to increase the flexibility of the program. The new guidelines include higher levels of funding for people who require more than 35 personal care service hours per week; provide for increased flexibility in the use of approved hours; provide for additional support through non-recurrent funding and variable funding levels; and provide information on a choice of three funding models within the program. Some people with a physical disability have told us that they wish to have full control over their funds and the management of their services. In the Attendant Care Program a direct funding model is now an approved funding option.

Under the direct funding model, funds are paid directly to the client who is responsible for purchasing services and managing their care. Clients take on the full employer-service provider responsibility and are accountable to the Department of Ageing, Disability and Home Care for expenditure and service quality under their own individual funding agreement. As well as funding the Attendant Care Program, the New South Wales Government provides recurrent funds to non-government organisations to deliver a variety of services for people with a physical disability. Funding is also provided to peak bodies such as the Physical Disability Council and organisations with specialised expertise in physical disability and spinal cord injury such as Spinal Cord Injuries Australia and ParaQuad.

FLICK KNIFE DEFINITION

The Hon. ROBERT BROWN: I direct my question without notice to the Hon. Tony Kelly, representing the Minister for Police. Is the Minister aware that Federal Customs are now using a definition of "flick knife" that may include standard lock blade penknives within the determinant of a prohibited item? Will the Minister, as the Minister responsible for legislation regulating prohibited items in New South Wales, make a submission to the Federal Government to have this definition reviewed?

The Hon. TONY KELLY: I thank the honourable for his question, which I undertake to pass on to the Minister for Police for a speedy reply.

TRANSPORT INFRASTRUCTURE

The Hon. CHARLIE LYNN: I direct my question without notice to the Minister for Transport. Is the Minister aware of the admission made yesterday by the National Secretary of the Australian Labor Party, Mr Karl Bitar, at the National Press club that "the commitment to the Epping-to-Parramatta rail line in Sydney had been among the biggest mistakes of the campaign". Given the Minister's recent interest in south-west Sydney, will he reallocate the funds assigned to Labor's "biggest mistake" to upgrade and build essential transport infrastructure in the growth areas of Camden, Campbelltown and Wollondilly?

The Hon. JOHN ROBERTSON: The election of the Gillard Labor Government is great news for the commuters of western Sydney. Working with the Federal Government, we are delivering the Parramatta to Epping Rail Link. Federal Labor will invest \$2.1 billion, or 80 per cent of the anticipated construction cost of \$2.6 billion for the project, with the New South Wales Government investing \$520 million in the project. Key benefits of the project include the direct linking of Parramatta, Sydney's second central business district, with employment centres such as Macquarie Park, North Ryde and Chatswood; reducing journey times to Chatswood from Parramatta by rail substantially; improving the development of the Western Express services between western Sydney and the city; and increasing the capacity on the western line. The Opposition refuses to support the Parramatta to Epping Rail Link and the Western Express and City Relief Line. That public transport infrastructure represents an investment of more than \$7 billion for western Sydney—not one cent of which is supported by Barry O'Farrell. Western Sydney commuters deserve an answer as to why the Opposition does not regard as important better public transport for western Sydney.

STATE HERITAGE

The Hon. IAN WEST: My question is addressed to the Minister for Planning. What is the Government doing to preserve the State's heritage?

The Hon. Melinda Pavey: A heritage question, Catherine, but we could not hear it.

The PRESIDENT: Order! Before the Minister commences his answer I remind members that interjections are disorderly at all times. If members are having problems hearing questions, I suggest it is because they are too busy interjecting.

The Hon. Don Harwin: I do not think so.

The PRESIDENT: Order! I will not entertain argument from members. The Minister has the call.

The Hon. TONY KELLY: I thank the honourable member for his question. I am pleased to advise the House that the Keneally Government has a proud record in conserving the State's heritage. The Government has introduced a thematic listings program for the State Heritage Register, which will enable the Heritage Council to facilitate the process of listing new items in a comprehensive and strategic manner. The five themes are: Aboriginal heritage, convict heritage, heritage related to Governor Macquarie, heritage related to World War I and World War II, and "priority places". Since becoming the Minister responsible for heritage in 2009, I have added 29 items to the State Heritage Register. For example, the Wollongong Harbour precinct was listed for its many convict features, including its convict-built stone walled harbour, remarkable lighthouses and fortifications, and colonial buildings. In August 2010 two sites under the Government's Governor Macquarie theme were listed by me. Both sites are found in the Hawkesbury town of Wilberforce, which was established by Governor Macquarie in 1810.

[Interruption]

It is obvious that Opposition members are not interested in western Sydney. The first site, Wilberforce Cemetery, is one of the six burial grounds that Governor Macquarie established in 1810 under his policy requiring that the deceased be buried in consecrated grounds, not on their farms. The second site, the former Macquarie schoolhouse-chapel, which was built in 1819, is located close to the Wilberforce Cemetery under Macquarie's town plan. It is the only surviving example of the five schoolhouse-chapel buildings that Governor Macquarie established in Hawkesbury-Nepean towns.

Another recent State listing under the Aboriginal theme is the Warangesda Mission site, which contains a rare collection of Aboriginal mission and station building ruins and archaeological relics that demonstrate the

local indigenous community's cultural history and struggle for land rights. The site was listed with the overwhelming support of the local Aboriginal community. Six sites linked to legendary nineteenth century bushranger Ben Hall have been given the State's highest level of heritage protection under the "priority places" theme. This listing will be a major boost to regional New South Wales tourism, with these new priority places sure to boost tourism in the Cabonne, Blayney, Goulburn Mulwaree, Upper Lachlan and Forbes shires. Born in 1837 at Maitland to convict parents, Hall took up bushranging around the age of 22 after two wrongful arrests—and he was not the only person to suffer that indignity—and his house was destroyed by fire.

The Hon. Duncan Gay: Is this a personal explanation?

The Hon. TONY KELLY: I am defending members of my family. Hall gained a reputation as a gentleman bushranger, and by the end of the nineteenth century was referred to as the Australian Robin Hood. The sites of Escort Rock, Eugowra, Cliefden, Wandii, the Bushranger Hotel, Ben Hall's death site and Ben Hall's grave are spread across the central west of the State, and what they reveal about the impact of bushranging on colonial New South Wales is significant. The sites will be added to the Heritage Tourism online site, which allows people to explore tourism sites in regional areas. The Keneally Government continues to support the State's heritage. We have just announced the latest round of heritage grants valued at \$5.5 million over the next two years.

The Hon. IAN WEST: I ask a supplementary question. Will the Minister elucidate his answer?

The Hon. TONY KELLY: Yes, I would like to elucidate my answer to refer to the \$5.5 million worth of heritage grants that will be made over the next two years. Owners and managers of State heritage items in New South Wales have been invited to apply for that funding in the latest round of heritage grants. They have an important task in protecting and enhancing the State's valuable heritage items, and the Government is keen to support them. This funding will go directly into conserving and maintaining old buildings such as town halls and colonial residences, as well as important historical community buildings such as churches and theatres. Applications must be lodged by Friday 3 December 2010, and I would encourage interested parties to apply. The Keneally Government continues to show its support for our State's heritage.

FIREARMS SHOOTING RANGES

The Hon. ROBERT BORSAK: I direct my question without notice to the Hon. Eric Roozendaal, representing the Minister for Police. Will the Minister please advise what sources of expertise are used for the Firearms Registry in evaluating the suitability of land for firearms shooting ranges, and what relevant qualifications do the experts possess?

The Hon. ERIC ROOZENDAAL: I thank the honourable member for his question, which I will refer to the Minister for an appropriate response.

GOVERNMENT ADVERTISING

The Hon. MARIE FICARRA: I direct my question without notice to the Treasurer. How does the Treasurer explain an increase of \$3.5 million in advertising expenditure by government agencies, now totalling \$105.2 million, when the Treasurer announced in the November 2008 mini budget that government agencies were to cut their advertising budgets by 25 per cent to save \$31 million?

The Hon. ERIC ROOZENDAAL: Government advertising is a matter for the Minister for Commerce, Mr Paul Lynch. However, I will say that members should understand that very important community messages are promoted by the Government through advertising across a range of issues. Some of the issues that come to mind are binge drinking, road safety, speed zone safety, the dangers of smoking, the dangers of suntanning and the importance of covering up during summer. I take this opportunity to re-emphasise to the House that it is important to take all appropriate steps to slip, slop, slap, to stay out of the sun during the hottest part of the day and to wear appropriate clothing. These are all important community messages and we are seeing the benefits of our advertising campaigns, particularly in reducing cigarette smoking.

I know that our greedy colleagues on the other side of the House enjoy getting their hands on that \$600,000 of tobacco money, which drips through their hands. They have refused to stop taking money from the tobacco companies. They still happily take it and slip it into their pockets. Why does that side of the House refuse to stop taking dirty tobacco money? They are addicted. They need nicotine patches on their arms to wean

them off tobacco money. Many years ago the Labor Party said "no" to tobacco money. That side of the House wants to stay in good with their multinational tobacco mates, all together puffing away and taking cigarette money. Where does Nick Greiner, a former Leader of the Opposition and former Premier, work? He heads up one of the major tobacco companies.

Every day those tobacco companies try to sell their products to the population of this country with all of the health risks that go with them, which for so many years the tobacco companies have denied and pretended are not real. Yet the Liberal Party and The Nationals still take every dirty tobacco dollar that is sent to them. They invite tobacco company representatives to their functions and sign them up to their business forums. The Labor Party cut out tobacco funding years ago. This shows the dishonesty of those on that side of the House when they talk about government advertising.

The PRESIDENT: Order! All members will come to order.

The Hon. Don Harwin: Point of order: First, the Minister should be generally relevant. Secondly, he is being extremely tedious and repetitious.

The PRESIDENT: Order! The Minister may continue his answer.

The Hon. ERIC ROOZENDAAL: The Hon. Don Harwin can go and have a cigarette break if he needs to. The Government will continue to ensure that government advertising is cost-effective, that it benefits the community and that it is in the best interests of the people of New South Wales.

ILLAWARRA AND SOUTH COAST REGIONAL BUSINESS GROWTH PLAN

The Hon. TONY CATANZARITI: My question without notice is addressed to the Minister for the Illawarra. Can the Minister provide details on what the New South Wales Government is doing to support the Illawarra's growing knowledge services sectors?

The Hon. ERIC ROOZENDAAL: I thank the Hon. Tony Catanzariti for his question and interest in this matter.

The PRESIDENT: Order! I place the Hon. Melinda Pavey on a call to order. The Minister may continue.

The Hon. ERIC ROOZENDAAL: The Illawarra is a growing region of more than 400,000, with renewed focus and new growth in key sectors such as information technology and business and financial services. The New South Wales Government is focused on supporting this continued growth through our regional business growth plan for the Illawarra and South Coast. We are tackling barriers to business investment, including infrastructure, land use and planning needs, and skills and workforce planning issues, and we are supporting development opportunities in the region. Importantly, we have developed this plan in consultation with local industry and community leaders. The Illawarra and South Coast Regional Business Growth Plan focuses on supporting the region's traditional industry base in manufacturing, as well as in emerging areas such as knowledge-intensive industries in information and communication technologies [ICT], business and financial services.

The Knowledge Services Strategy is a key element of the Illawarra and South Coast Regional Business Growth Plan. This strategy, which is an outcome of the 2006 Wollongong City Revitalisation Plan, is transforming the economy of the region. Knowledge services span some of the fastest-growing sectors of the economy and are intensive users of technology and skilled people. The fast-growing knowledge services sectors, especially information and communication technologies, business services and financial services, are already substantially developed in Wollongong. Research by Industry and Investment NSW shows that 58 locations across Wollongong employ over 4,500 people in knowledge services. These people live in Wollongong, Shellharbour, Kiama and beyond, so the benefits of developing knowledge services sectors are truly regional in nature.

Last week at the State of the Illawarra Regional Leaders Summit I released the latest update of the Knowledge Services Strategy for the Illawarra. It shows that the New South Wales Government's support for 27 business investment projects has helped secure 1,200 jobs for the Illawarra—jobs in information and communication technologies, business and financial services. The New South Wales Government has been on

the front foot in attracting new businesses and investment to the Illawarra. The New South Wales Government has provided \$4 million in financial assistance through the Illawarra Advantage Fund to support the Knowledge Services Strategy and the businesses that are helping to reshape the economic landscape of the region. The New South Wales Government also supported the establishment of the Innovation Campus at Wollongong by providing seed funding and ongoing support to drive collaboration and partnerships between research and business communities. In partnership with the University of Wollongong, Industry and Investment NSW is providing \$45,000 over three years to support the Illawarra ICT Cluster, another key initiative of the Knowledge Services Strategy. Through the strategic planning we have done in partnership with regional stakeholders the New South Wales Government is laying the foundations to build an even stronger regional economy for the future.

OUT-OF-HOME CARE

The Hon. IAN COHEN: My question without notice is directed to the Treasurer. Given it is now two years since the Wood Special Commission of Inquiry into Child Protection in New South Wales recommended, and the Government subsequently supported, the placement of children in out-of-home care with non-government organisations rather than Community Services, will the Treasurer inform the House how much additional funding has been allocated this year and set aside in future years to meet the cost of transitioning out-of-home care to this new model?

The Hon. ERIC ROOZENDAAL: I will pass the Hon. Ian Cohen's question on to the relevant Minister for an appropriate response.

CHILDREN'S COURT MAGISTRATES

The Hon. DAVID CLARKE: My question without notice is directed to the Attorney General. In relation to the appointment of magistrates to carry out the work of the Children's Court, why have suitably qualified persons not been recruited specifically to that court rather than assigning the magistracy in general?

The Hon. JOHN HATZISTERGOS: This issue was addressed by the Wood special commission of inquiry, which made it clear that there was value in continuing existing arrangements but that the number of magistrates specifically assigned to the Children's Court should be increased, and that we have done. We increased the number by two following the special commission of inquiry. That means that a greater number of the more complex matters are able to be dealt with by a specialist Children's Court magistrate. It is important to ensure that we are able to provide services across the State. In some communities the volume of work is not sufficient to have a Children's Court magistrate to do much of the routine work. That is the reason we appoint Local Court magistrates to do that work. People with specialist qualifications can apply to become Local Court magistrates and ultimately go on to the Children's Court. The Children's Court continues to be able to provide a service to metropolitan Sydney and other parts of the State, particularly in more complex matters.

DISABILITY SERVICES AND RESIDENTIAL FACILITIES

The Hon. LUKE FOLEY: My question is addressed to the Minister for Disability Services. Will the Minister please inform the House about the devolution of large residential centres?

The Hon. PETER PRIMROSE: Through the Government's \$1.3 billion Stronger Together initiative for disability services the New South Wales Government has provided \$2.3 million to Glenray Industries to redevelop the existing St Michael's hostel in Bathurst. This funding has enabled Glenray to purpose-build two new five-bedroom group homes and to redevelop other parts of the existing hostel for use as respite and recovery areas. The result of that investment is quality accommodation for up to 20 people. I had the privilege of opening new group homes last Friday with the hardworking local member, Mr Gerard Martin.

The homes overlook the floodplain where the football field and cricket ovals are situated and they also have a great view of Mount Panorama. In fact, many people who attended the opening remarked that the homes have the best view in Bathurst. The homes were wonderfully fitted out, with many of the cupboards and fittings having been produced by the residents themselves through their work at Glenray Industries. What better way to give ownership and control to the residents over their own lives and homes than to use their own work as integral parts of their new homes.

It is that attitude to the new homes that is particularly indicative of what the Government, Glenray Industries and other non-government organisations in the disability services sector are trying to achieve in the

devolution of large residential centres. Brian Adams and Fred Lamers from Glenray Industries remarked to me that whereas before people were given a room off a hallway, now they are in their own home off a street. I know that I speak for all honourable members in this House in congratulating the new residents at St Michael's on their efforts in settling into their new homes, in congratulating the board and management of Glenray Industries on their vision in planning and constructing the places, and in congratulating the Bathurst community generally on achieving this important stage in reforming the way we support people with disabilities so that they can live as a natural and integral part of the community.

The New South Wales Government is moving ahead across New South Wales in the complex process of reforming large residential centres. I am pleased to announce the closure this month of the Peat Island Centre. Peat Island has now been replaced by Casuarina Grove and Fig Close group homes. That is in addition to the closure in January 2009 of the Grosvenor Centre in Summer Hill and its replacement with the Summer Hill group homes, a purpose-built specialist accommodation service. All former residents of the Grosvenor Centre are now settled into their new homes.

I am also pleased to inform the House that the closure of the Lachlan Centre is imminent. Its replacement will provide specialist accommodation for people with significant challenging behaviours. Construction of the 10 new five-bedroom homes at North Ryde is due to be completed this month and Lachlan residents are expected to relocate to their new homes by the end of this year. Additionally, funding was confirmed in the New South Wales State budget in June for the redevelopment of the Riverside Centre in Orange. A combination of newly built on-site and off-site accommodation in the form of small domestic-style homes will replace the current service. We are confident that the redeveloped accommodation services will provide an excellent level of support and improve the quality of life for all residents into the future. Homes off a street, not rooms off a hallway—that is what we are achieving for people with disabilities in New South Wales.

The Hon. JOHN HATZISTERGOS: I suggest that if members have further questions, they place them on notice.

Questions without notice concluded.

[The President left the chair at 1.04 p.m. The House resumed at 2.30 p.m.]

TABLING OF PAPERS

The Hon. Michael Veitch tabled the following papers:

Annual Reports (Statutory Bodies) Act 1984—Reports for the year ended 30 June 2010:

Border Rivers-Gwydir Catchment Management Authority
Central West Catchment Management Authority
Hawkesbury Nepean Catchment Management Authority
Hunter-Central Rivers Catchment Management Authority
Lachlan Catchment Management Authority
Lower Murray Darling Catchment Management Authority
Murray Catchment Management Authority
Murrumbidgee Catchment Management Authority
Namoi Catchment Management Authority
Northern Rivers Catchment Management Authority
Roads and Traffic Authority
Southern Rivers Catchment Management Authority
Sydney Metropolitan Catchment Management Authority
Sydney Olympic Park Authority
Western Catchment Management Authority.

Ordered to be printed on motion by the Hon. Michael Veitch.

Pursuant to sessional orders debate on Committee reports proceeded with.

JOINT STANDING COMMITTEE ON ELECTORAL MATTERS

Report: Public Funding of Election Campaigns

Debate called on, and adjourned on motion by the Hon. Michael Veitch.

STANDING COMMITTEE ON LAW AND JUSTICE**Report: Spent Convictions for Juvenile Offenders**

Debate resumed from 27 October 2010.

The Hon. CHRISTINE ROBERTSON [2.32 p.m.]: I am pleased to resume debate on the forty-second report of the Standing Committee on Law and Justice entitled "Spent convictions for juvenile offenders". The report was tabled on 6 July 2010. The inquiry was referred to the committee in November 2009 by Attorney General Hatzistergos. The Attorney General advised that the Standing Committee of Attorneys-General [SCAG] had undertaken a project to achieve national consistency in spent convictions schemes. The project had led to the development of a model spent convictions bill to be adopted by each jurisdiction. However, the Standing Committee of Attorneys-General model bill does not cover sexual offences because of policy differences between jurisdictions. The inquiry was established to allow the views of stakeholders to be aired in a public forum and the committee to analyse the issues and make recommendations, and thereby to assist the Attorney General to decide whether to include juvenile sexual offences in the New South Wales legislation to implement the model bill.

I start by thanking my fellow committee members for their collaborative approach in conducting this inquiry. We took evidence from a number of stakeholders including the New South Wales Children's Court, the Commission for Children and Young People, the Law Society, the Bar Association and the Youth Justice Coalition. Witnesses also included four government agencies: the Department of Justice and Attorney General, the Police Force, Juvenile Justice and Justice Health. In addition, we heard from individuals affected by the exclusion of juvenile sexual offences from the spent convictions scheme. On behalf of the committee, I thank all inquiry participants. It is due to their knowledge and insights that we were able to come to terms with this very difficult subject.

This inquiry examined the complex issue of whether convictions for juvenile sexual offences should continue to be excluded from the spent convictions scheme or whether there are circumstances in which juvenile sexual offences should be capable of being spent. In examining this issue we sought to balance competing interests. Foremost is the need to protect the community from sexual offenders. Balanced against this is the community interest in rehabilitating offenders to reduce reoffending. The evidence shows that young offenders would be supported in their rehabilitation by removing the requirement to disclose convictions for sexual offences after a suitable period of good behaviour, for example when applying for jobs and further education. Employment and education protect against reoffending, and encourage community reintegration.

A number of distinctive factors contribute to juvenile sexual offences that inquiry participants said would support their inclusion in the spent convictions scheme. These factors include immaturity, impulsiveness and peer pressure, as well as ongoing brain development until young people reach their mid 20s—we have found this in a previous inquiry. Another important consideration was the research finding that there is not a necessary progression from juvenile sexual offending to child sexual offending in adulthood. The research also shows that juvenile offenders, if they are re-convicted, do not tend to be re-convicted for sexual offences.

In considering whether to include juvenile sexual offences in the spent convictions scheme, it is important to remember that the scheme is not concerned with punishment. Sentencing will maintain a hard line towards sexual offending, regardless of any changes to the spent convictions scheme. In addition, the spent convictions scheme is designed to only permit convictions for less serious offences to become spent when an offender has completed the required good behaviour period. After considering the evidence, the committee concluded that juvenile sexual offences should not be treated differently from other juvenile offences for the purposes of the spent convictions scheme. We therefore recommended that juvenile sexual offences be included in the spent convictions scheme proposed by the New South Wales legislation to implement the model bill.

Our nine recommendations set out a preferred model for including juvenile sexual offences in the spent convictions scheme. We recommended that juvenile sexual offences be included in the spent convictions scheme when the sentence imposed is less than 24 months, and the offender completes a good behaviour period of three years. The degree of debate and controversy over the figures during our inquiry into the issue was amazing. In recommending a 24-month benchmark sentence, we were persuaded by the evidence that the courts view sexual offending very seriously, and only less serious offences would be captured. In recommending a three-year good behaviour period, we considered that this length of time would be sufficient for a juvenile offender to demonstrate that he or she had been rehabilitated, but would still provide a young offender with an

incentive not to reoffend. We were mindful of the evidence that even if a persistent offender received a sentence of less than 24 months, the offender may possibly reoffend within the three-year period and the original offence would therefore not become spent.

The 24-month benchmark sentence is consistent with the benchmark sentence in the model bill. In recommending a three-year good behaviour period, however, the committee departed from the provisions of the model bill, but did so only after careful consideration of the evidence presented during the inquiry. The committee also considered the mechanism by which convictions for juvenile sexual assault offences should become spent. The committee concluded, and therefore recommended, that convictions for juvenile sexual offences be spent by lapse of time, in the same manner as other convictions. However, we also recommended that a safeguard be introduced for offenders that raise concerns about reoffending. This safeguard would enable the Attorney General or the Commissioner of Police to make an application to intervene towards the end of the good behaviour period. The courts would then determine whether the conviction should be spent.

We do not support limiting the scheme to include specifically only those offences raised in the terms of reference, namely where the sexual activity was consensual, the offence was a minor sexual offence, or where no conviction was recorded. However, by supporting the inclusion of all juvenile sexual offences that fall under the benchmark sentence of 24 months we have opened the way for such offences to become spent.

The report also made recommendations on three related issues. The complexity of these issues became evident from the submissions and evidence given to the inquiry. The first of these issues is where a court finds a person guilty of an offence but decides that there are exceptional circumstances that do not warrant a conviction being recorded. The committee recommended that the New South Wales legislation to implement the model bill provide for offences where no conviction is recorded to become spent immediately, as is the case at present. In this area we recommended that the changes apply to both adult and juvenile offenders, and to sexual offences as well as other offences.

The second of these issues concerns the operation of child protection mechanisms. In the report we emphasised that the spent convictions scheme and child protection mechanisms need to be aligned. This is particularly important given our recommendation that convictions for juvenile sexual offences be included in the spent convictions scheme. Without corresponding changes to child protection legislation, we believe that some of the benefit from including convictions for juvenile sexual offences in the spent convictions scheme would be lost. The statutory review of the Commission for Children and Young People Act, which was being conducted at the time of our inquiry, was an opportune occasion to review the interplay between child protection mechanisms and the spent convictions scheme. We therefore recommended that the review address whether there should be greater scope for offenders with historical convictions to have their prohibited status lifted.

The committee members learned from people who came to speak to us about this issue, people who had been operating in a trade over a long period, that the melding of the two Acts had had an adverse impact on their family lives and their business lives. The committee also learned that there was an appeal process that these people did not have access to. In that respect we were able to assist the people concerned, but that is not good enough. There was a recognition that that sort of information about the processes for appeal relating to employment in education and employment in health need to be much clearer so that people in this sort of situation are aware that such an appeal process is available to them. I am fairly sure that that was public information. The couple concerned had had a child at a very young age. It was a bizarre situation. The couple then married, their children were involved in trades and in the Police Force, and they had had a very successful married life, but suddenly the person could not put roofs on schools. It was a complex issue that needed to be addressed, and the entire committee was incredibly grateful to those persons for coming forward to give us that information. It was an incredibly important part of the process.

The third of these issues concerns alleged deficiencies in the process for removing spent convictions from an individual's criminal record. To address these concerns the committee recommended that the Minister for Police examine and address any such deficiencies. On behalf of the committee, I again express our gratitude to stakeholders for their significant contributions to this inquiry. I also thank the committee secretariat for their professional support. I commend the report to the House. I look forward to hearing what other committee members have to say about the inquiry.

The Hon. JOHN AJAKA [2.44 p.m.]: I speak to the Standing Committee on Law and Justice report No. 42 of July 2010 entitled "Spent convictions for juvenile offenders". First, I thank the committee secretariat for the assistance provided to members during the inquiry and the clear and concise manner in which the issues

were outlined to us. I also thank the committee chair, the Hon. Christine Robertson, for the way in which she conducted the hearings and for her detailed summary of the committee's report. I do not intend to repeat the matters the Hon. Christine Robertson has raised, other than to say that I concur with her comments. I also thank the other members of the committee.

This was a clear and concise term of reference that was sent to our committee. When one looked at the term of reference, one could see that it should have been a very simple question to answer. However, as with many matters, once one starts to hear evidence from the competing interest groups some complexities start to arise. The majority of the committee—I believe there was only one dissenting statement in the report—believed that the nine recommendations of the committee should be implemented. I will now refer to a couple of those recommendations. First, with regard to recommendation 2, after listening to all the evidence it became clear to the committee that the Attorney General should ensure that the New South Wales legislation to implement the model spent convictions bill includes convictions for juvenile sexual offences. Recommendation 4 provides that the Attorney General should ensure that the New South Wales legislation to implement the model spent convictions bill provides that convictions for juvenile sexual offences, as with convictions for other juvenile offences, are capable of being spent when the sentence imposed was less than 24 months imprisonment.

It became clear from the evidence, not only in relation to past offences and convictions but also in relation to offences and convictions of today, that some minor offences would come within the category of a sexual offence when, after the court had heard all the evidence, determined the matter, used its discretion, and imposed a minimal sentence, or possibly dealt with the matter under section 10 whereby no conviction was recorded, the model should be utilised and these offenders should not be exempt from having their convictions spent. This went on even further in relation to recommendation 3, which provides:

The Attorney General ensure that the NSW legislation to implement the Model Spent Convictions Bill provides that where a court finds a person guilty of an offence without proceeding to a conviction under section 10 of the *Crimes (Sentencing Procedure) Act 1999*, including for a sexual offence, the finding is spent immediately after it is made.

Those of us who have practised in the courts and are familiar with sentencing procedures are well aware of the difficulty in dealing with a matter under section 10 of the Crimes (Sentencing Procedure) Act 1999 in relation to an offence that has been proved. Magistrates and judges do not grant a section 10 application lightly. Section 10 applications are granted because there are exceptional circumstances when the judicial officer is satisfied that it is the appropriate sentence and that the offender in effect should not be punished. It is on that basis that magistrates and judges do not proceed to record a conviction. It seems almost futile and ironic that if, on the one hand, a magistrate or a judge does not proceed to a conviction but instead deals with the matter under section 10 the defendant continues to be punished simply because the conviction is not spent or is not spent automatically, including if it was in relation to what clearly would have been a very minor sexual offence.

The recommendations also addressed the vital issue of the statutory review of the Commission for Children and Young People Act 1998 with regard to historical cases. This interested me because some years ago a person who had been convicted of the sexual offence of indecent assault sought my legal advice. The person, who was 17 or 18 years old, had been caught—to use a colloquialism—relieving himself at Bondi Beach. That person, now aged 67 years, was seeking my advice because he had been given the opportunity to chair a very substantial corporation and was concerned that the conviction had not been spent in more than 50 years. Someone in that position should not be denied the opportunity to work with children because of a clearly minor conviction. That is a perfect example, and there are many others, where discretion should be used to have a conviction spent—recommendations Nos 7 and 8 go towards that. The report and the recommendations are clear. The chair of the committee has summarised the report well and I commend the report to the House.

The Hon. CHRISTINE ROBERTSON [2.50 p.m.], in reply: I am hopeful of a Government response to this report before the close of the current parliamentary sitting. A lot of work went into this report and a lot of stakeholders came forward. This question was perceived to be very important and worthy of urgent consideration by the Standing Committee of Attorney-Generals. A response by the Government will impact on the future of the people affected by this process if not this year, then in the future. I thank the committee members—the Hon. David Clarke, the deputy chair; the Hon. John Ajaka; the Hon. Greg Donnelly; and the Hon. Lynda Voltz—for their great work. It was recognised by the committee that something that looked so easy and simple on the surface most definitely was not. Some issues dealt with during the inquiry were of a sensitive nature and sensitive processes had to be negotiated, which the secretariat staff handled well. I thank Ms Rachel Callinan, Ms Madeleine Foley and Ms Christine Nguyen for being so thoughtful and for their hard work. I commend the report to the House.

Question—That the House take note of the report—put and resolved in the affirmative.

Motion agreed to.

GENERAL PURPOSE STANDING COMMITTEE NO. 2

Report: The Provision of Education to Students with a Disability or Special Needs

Debate resumed from 31 August 2010.

The Hon. ROBYN PARKER [2.53 p.m.]: I speak as chair of the General Purpose Standing Committee No. 2 to the report entitled, "The Provision of Education to Students with a Disability or Special Needs". The committee is yet to receive a response from the Government to this inquiry; we may not receive such response before January. It is a pity that a response will not be received before the end of the current parliamentary sitting. Nevertheless, the report is very clear as to the needs of the parents, teachers and students we came in contact with during the inquiry and the recommendations are available to both the Government and the Liberal-Nationals Coalition—whoever wins government at the March election—to take note of, accept, reject or implement. This comprehensive test will stand the test of time. The report also contains recommendations as to ongoing relationships with the Commonwealth for children with a disability and special needs in education.

The report needed to be comprehensive as it deals with issues that most of us could not possibly understand, but we listened. At the outset I thank the committee members and the secretariat staff for their compassion, dedication and focus. More than 700 submissions were received and evidence was given by more than 70 witnesses. The committee is extremely grateful to the parents, teachers, advocacy organisations and academics for their valuable contributions in shaping our recommendations. Significant inadequacies in the New South Wales education system for students with a disability and special needs were identified. We listened to the concerns of parents of children with a disability and special needs. We acknowledge that many parents need to constantly advocate for the rights of their children to receive the same educational opportunities as other children. The committee is calling on the New South Wales Government take action to ensure that all students have equal access to our education system and that long-term planning and funding is provided to ensure that.

The committee heard that one of the major barriers to the effective inclusion of students with a disability and special needs in the education system was the lack of appropriate funding in both government and non-government sectors, and recommended that the New South Wales Government substantially increase funding for these students. The efforts made by principals, teachers and support staff to promote an inclusive learning environment for students with disabilities and special needs are to be commended, but the committee recognised that school communities would benefit from additional support and guidance on how to actively and effectively maximise the use of their available resources to assist those students with a disability and special needs. Many of the committee's recommendations were designed to improve decision-making at that level, particularly as to the role of the school learning support team. Many teachers told us that they do not receive adequate support to cater for the learning needs of the 15,000 students with disabilities and the 50,000 students with special needs enrolled in mainstream classes. Several of our recommendations are therefore designed to increase the resources available to assist teachers in mainstream classes to address the learning requirements of all of their students.

The report made more than 30 recommendations seeking to improve the education of students with a disability and special needs, including recommendations to improve the assessment process for individual disability funding, increase access to professional support, enhance teacher training and address the unmet need for special education places. The committee made recommendations—as it did in its inquiry into the bullying of children and young people—in relation to school counsellors. Throughout the inquiry the committee wrestled with categorical assessment as opposed to functionality. We tried to find a way in which the needs of children could be assessed and addressed equitably. We do not have all the answers but we tried to come up with some comprehensive recommendations that, going forward, can be picked up by this Government or whoever wins government at the March election.

A trial of a new support system for teaching children with a disability and special needs was undertaken in the Illawarra at the same time as our inquiry. That trial has now been completed and I understand that an evaluation has been given to the Minister. The committee has not received any feedback on that trial and I urge the Government to let us know what the overall evaluation was. For example, an issue we grappled with was

language classes that were maintained during the trial, but we do not know the conclusion of the trial in the Illawarra. It would be of benefit to have the evaluation as the Government and the Liberal-Nationals Coalition alternative government look towards the election and the formulation of policies. The evaluation could provide us with an informed view.

A number of discrete recommendations were made as a result of the inquiry, and I could not possibly refer to them all in detail. During a committee meeting held yesterday to conclude some of our work, members noted informally that we are still receiving feedback from participants, teachers and parents and requests about the inquiry report. The inquiry is still being discussed in the sector and work is ongoing. I also know of the importance of this inquiry to committee members. Reverend the Hon. Dr Gordon Moyes spoke of work that he undertook during the inquiry and is undertaking in relation to students with dyslexia.

There has been an increase in the number of children with a confirmed disability. The bulk of the community seem surprised that more than 32,550 students in New South Wales schools have a confirmed disability. Children with a disability account for 3.4 per cent of government school students, and 6.7 per cent of all students have special learning needs. Although it is a small percentage of the total number of students, the impact is large given the resources that are required to meet the needs of those students. We now have longer life expectancies and face issues such as developmental problems in premature babies. We also have better diagnosis of problems at an earlier age. Earlier diagnosis and intervention must be followed up with the maximum use of resources.

The issues examined by the inquiry were inclusion, funding and school learning support teams. The committee looked at assessment and whether the diagnosis of a disability based on disability criteria from the Department of Education and Training should be a prerequisite for receiving disability funding, or whether a functional assessment or a combination of both was the best way forward in determining students' needs. We dealt with concerns about the number of special education places and also higher support needs compared to lower support needs. We noted the widespread concern about unmet need for special education places. We inquired into support in mainstream classes and the School Learning Support Program. The committee felt there was a need for a multidisciplinary team at a regional level to provide support and that the team should be coordinated by the department. We considered that a universal curriculum should be developed and designed to meet the needs of children with disabilities and that the curriculum should continue through high school. We looked at behaviour schools and special education schools.

The committee was impressed by the efforts of principals, teachers and support staff to promote a safe and inclusive learning environment for students with disabilities and special needs. Despite the problematic levels of funding and resourcing, educational professionals in this State work hard to ensure that every child has access to high-quality learning. We commend them for their professionalism and commitment. We urge the Government to give educational professionals and parents, who advocate day in and day out on behalf of their children, the support they need. We must make sure that this report does not fall on deaf ears. We recognise the significant challenges that parents of children with disability face in their daily lives. We owe it to them to take the time and effort to provide policies that will support them and make sure that the inquiry recommendations are implemented.

I thank all committee members for the dedicated way in which they addressed this inquiry and the terms of reference. I acknowledge with great sincerity the committee secretariat. The secretariat staff read through and responded to each of the 700 submissions received by the inquiry, and ensured that they were reflected in the inquiry. On behalf of the committee, I give wholehearted thanks and appreciation to the committee secretariat: Beverly Duffy, Rebecca Main, Rhia Victorino, Abigail Groves and Christine Nguyen. I look forward to the contributions of other committee members to this debate. I also look forward to seeing policies from the Government, the Opposition, the Greens and other political parties that will address the issues faced by children with special needs and disabilities. I commend the report to the House.

Reverend the Hon. Dr GORDON MOYES [3.06 p.m.]: On behalf of Family First I comment on report No. 32 of General Purpose Standing Committee No. 2, entitled "The Provision of Education for Students with a Disability or Special Needs". At the outset I want to say how much I appreciated the work of committee members and the secretariat. The committee membership consisted of the Hon. Robyn Parker, the Hon. Christine Robertson, the Hon. Tony Catanzariti, the Hon. Marie Ficarra and me. The Hon. Shaoquett Moselmane took the place of the Hon. Greg Donnelly, who gave us a great deal of important insights, and Dr John Kaye, who is not a reverent doctor but an irreverent one, took the place of Ms Lee Rhiannon.

The committee's terms of reference were in an area dear to the hearts of various members of the committee. The committee inquired into the provision of education for students with a disability or special needs who attend our primary or secondary schools, with particular focus on what could be learnt from international and Federal approaches. We inquired into the level and adequacy of funding and how that funding was allocated to schools and to individual children, the adequacy of special education places within the education system, the various support services for children who are in mainstream settings despite their disabilities, the provision of current curriculum for intellectually disabled and conduct-disordered students who did not fit in—square pegs in round holes—and student family access to professional support and services such as speech therapy, occupational therapy, physiotherapy and school counsellors.

The committee spent an interesting time inquiring into the provision of adequate teacher training, particularly teachers in training in their pre-service years and teachers already in service but undertaking training upgrades. The Hon. Robyn Parker referred to the size of the inquiry. The inquiry received more than 700 submissions and examined 70 witnesses. We are extremely grateful to parents, teachers, advocacy organisations and academics for their input. We especially express appreciation to parents, who give so much of themselves to caring for their children with disabilities and who expend themselves so that their child might get a reasonable education.

A large number of parents requested that their names be suppressed. Unfortunately, this request was made because parents feared that if they said too much about their school or the teachers or about anything to do with their own personal experience, it would go against their children receiving future care. It is a great shame that we live in an environment where parents fear that if they say too much, their child will be disadvantaged within the education system. I made a point of speaking to many of those parents and subsequently to senior teachers and principals about that issue.

With more and more children with disabilities within the community—not only in terms of gross numbers but in terms of percentage—and because of a change in educational philosophy that meant that they had to be integrated into the ordinary curriculum and school setting, we are going to be short of funds. The inadequacy of funding from the Government was obvious, right throughout the inquiry. There are 15,000 children with disabilities and 50,000 with special needs and in almost every area of need people kept complaining about the shortage of services and funding.

Before I address other issues I wish to express my appreciation to each member of the Committee secretariat, led by Beverly Duffy. They had an extraordinary amount of work to do. Even reading the 700 submissions, typing them and putting them into a form that we could use was a huge task. We really appreciate their hard work.

There has been quite a change in disability services throughout the world in the past 20 or so years, particularly involving the philosophy that children with disabilities should be integrated within the normal educational curriculum of what I might call mainstream schools, both primary and secondary. That creates other problems in relation to the training of teachers, the adequate supervision of all children in the class and making sure that the teachers who are required to give special attention to children with particular needs do not neglect other children in their classes. It is a very fine balancing act. I honour those teachers who seek to do everything they are required to do and who do it with a sense of equality for their students who suffer from disabilities.

The committee made 31 recommendations. Some of them are in detail and I will not go over all of them. We looked closely at the various professional support services, such as speech therapy, physiotherapy and counselling, and although all those services were good, one word kept popping up over and over again: inadequate. Inadequate numbers, inadequate funding, inadequate application of hours, inadequate amount of time spent on individual children and so on. We had an excellent opportunity to look at teacher training. Some of us tried to keep up to date with what was happening in education and training. For example, I visited the training centres of the University of Newcastle at Ourimbah, which do excellent work educating students with disabilities and students with special needs. However, we still found that many of the courses given to young teachers in training were inadequate or too short, and we believe that training teachers to care for children with special needs and disabilities should be mandatory.

We also had the opportunity to look at ongoing in-service professional training. I visited the Macquarie University cognitive science and educational research divisions to have a look at what they were doing in that regard. The Queensland Government is doing a great deal also helping to develop curricula for teacher training, and we commend the Queensland Government for that. Our main concern was that mainstream New South

Wales government services be resourced by adequate school learning teams. The Department of Education and Training was commissioned to carry out a review of its online training course. Some of us had the opportunity to do, as a teacher would, some of the online training course. Concerns were raised by educational academics in cognitive science about the online training course, particularly by Professor Castles and Professor Max Coltheart. The Government should conduct an independent review of the School Learning Support Program online training course. I have no criticism of the way it is presented and I believe there is a need for it, but criticism has been made in academic circles about some of its content and its approaches to training.

All of us over the years—in our involvement with this inquiry and other inquiries—have got to know the indefatigable Mr Jim Bond, who is an advocate for dyslexia and children with learning difficulties. He took up many of the recommendations presented to the Parliament and, with university support, he has received funding to present some of those recommendations to other jurisdictions. For example, he was invited to speak at a senior level at Macquarie University and to have meetings with the Minister for Education and Training, the task group and support workers. He also travelled to Melbourne and Perth to speak to the respective Opposition shadow Ministers for Education and to present our recommendations as recommendations that could be taken up in their jurisdictions. I am pleased to say that he had had a great deal of success in that regard. I commend the report to the House.

The Hon. TONY CATANZARITI [3.16 p.m.]: I am pleased to speak to the General Purpose Standing Committee No. 2 report on the provision of education to students with a disability or special needs. Members will be aware of my respect of the committee process as a valuable tool in enhancing the democratic nature of our society. It is a very important tool for gathering information and opinions, which usually form the basis of reports that not only inform our colleagues but also often drive the provision of services in this State by the Government. The committee process is a valuable tool for allowing ordinary citizens to have their opinions heard and very often acted upon.

I am delighted to say that in this inquiry we received more than 720 submissions and heard evidence from more than 70 witnesses. Advocacy organisations, parents, teachers, academics and senior bureaucrats all gave freely of their time to assist the committee with its deliberations on this very important subject. As a person who is familiar with the plight of children with disabilities and other special needs, I personally thank those who took the time to give evidence and provide submissions to the inquiry. While we have some considerable way to go in improving the education experience of these special children, and our recommendations recognise that fact, I acknowledge that over the past two decades a massive change has occurred in the provision of services to them and their families.

Governments of all persuasions have worked to make our education system more inclusive, and I am proud that we no longer have the old segregated institutionalised and secretive system that operated in our society not so long ago. Today many young people go to school alongside their more able peers. This will benefit not only children with special needs, but all children. The advocacy group People With Disability told the inquiry:

It is our belief that inclusion in education is a worthwhile aim for not only people with disability but the diversity that is represented in society generally. Whilst inclusion is essential if students with disability are to have the opportunity to be valued members of their communities, it is also the only approach likely to redress the social disadvantage, stigma and discrimination commonly associated with culture, class, ethnicity and/or other factors which suggest difference.

I fully support those principles. Inclusion is not only important for the children who suffer real difficulties and hardship in their life; it also gives other children an opportunity to understand that some people are not as lucky in being as healthy or as able as they are—and I emphasise the word "lucky".

DEPUTY-PRESIDENT (The Hon. Helen Westwood): Order! Members who wish to engage in private conversations should do so outside the Chamber. Members who wish to remain in the Chamber should show respect to the member with call and listen to his contribution in silence.

The Hon. TONY CATANZARITI: I am certain that inclusion creates a better society. It also gives us a better understanding of the struggle that is the daily challenge confronting many in our community. It helps us to understand that beyond that struggle there is also triumph and achievement and to appreciate that we can all make very real differences to each other's lives and in the communities in which we live.

That said, the committee was told of the need for better support for children with disabilities. Of course, that support requires more funding. It is particularly required by children of families who live in rural

and regional New South Wales. New South Wales Government schools alone have more than 30,000 students with a confirmed disability and more than 50,000 with special needs. Catholic schools have the same proportion of children with a confirmed disability and special needs—they comprise 3.4 per cent of the school population—and the proportion in independent schools is somewhat less, at 2 per cent of the school population. In 2009 the wider New South Wales education system had almost 50,000 children with special needs. That is a remarkable transformation from the system that operated prior to the 1980s, and we should not lose sight of that fact.

We should always seek to improve these systems, and I am pleased that the committee has made more than 30 recommendations in that regard. Its recommendations seek to improve the education of students with disabilities or special needs in New South Wales schools by improving the assessment process for individual disabilities funding, increasing access to professional support, enhancing teacher training and addressing the unmet demand for special education places. The committee also agreed that, irrespective of the school sector, funding levels for students with disabilities and special needs should be reviewed as a whole, and it made recommendations to that effect.

The committee noted that because of the nature of rural and regional areas they frequently do not have the required population to support minimum class sizes. That means that some students with disabilities miss out on special education placements that may be available in urban areas. Added to those concerns is the issue of increasing identification of students with autism spectrum disorders because that may further reduce the number of already limited special education places available in rural and regional areas. I am pleased to note that the committee made recommendations in that regard based on evidence provided by Dr Trevor Clark, the Executive Director of Education and Research at Autism Spectrum Australia [Aspect]. Recommendation No. 7 states:

That the Department of Education and Training facilitate the provision of satellite autism classes in country areas to ensure children with autism in these areas have appropriate access to these classes.

A satellite class is an autism-specific support class operated by an Aspect school and located in either a New South Wales Department of Education and Training or Catholic mainstream school. Satellite classes generally cater for students with an autism spectrum disorder with low support needs who may benefit from a mainstream education setting. The type of placement provided for students is directly related to their skills development and support needs. Satellite classes are an important step in the transition of some students with an autism spectrum disorder who demonstrate the necessary skills.

Each school has a suite of infants and primary satellite classes. Some schools also have a secondary satellite class. Regional groups of satellite classes are located in the Riverina, Wagga Wagga and Albury areas, which are covered by the Aspect South Coast School, and on the far North Coast at Alstonville, which is covered by the Aspect Vern Barnett School. I understand that Aspect runs almost 80 satellite classes across the State, and I believe that recommendation No. 7 will be of assistance in increasing its coverage or service provision in rural and regional New South Wales. I take this opportunity to urge departmental officers to keep in mind the difficulties faced by families in rural, regional and remote New South Wales when they plan to improve service delivery to children with special needs.

On that note, I also ask the chairs of parliamentary committees to take into account the difficulties faced by some members. I do not want to go into the issue in great detail, other than to note that the time frame for decision-making and the scheduling of deliberative meetings and hearings should accommodate the fact that some members do not live in the Sydney Basin and must travel long distances to fulfil their duties. [*Time expired.*]

The Hon. SHAOQUETT MOSELMANE [3.26 p.m.]: General Purpose Standing Committee No. 2 inquired into the provision of education to students with a disability or special needs attending primary or secondary schools and focused on a number of areas, particularly the nature, level and adequacy of funding for the education of children with a disability and best practice approaches in determining the allocation of funding to those children. It also inquired into the level and adequacy of special education places in the education system and integrated support services provided to children with a disability in mainstream settings. Also of importance were matters pertaining to the curriculum offered to intellectually disabled students, family access to professional support and services and the provision of adequate teacher training at both the pre-service level and ongoing professional training.

The inquiry received more than 700 submissions and heard evidence from more than 70 witnesses. Every member of the committee is grateful to the parents, teachers, advocacy organisations and academics for

their valuable contributions during hearings and the inspections conducted at various schools. I have never before had the honour of being involved in such an inquiry and one that has raised so many questions, not only about the provision of education for disabled children but also about the system and the people who are heavily involved in the education and care of disabled members of our community.

The committee was advised that there are more than 15,000 students with disabilities and 50,000 students with special needs enrolled in mainstream classes. In one way or another they all need the State's support and the assistance of those who can or who care to provide it. I was most affected by—and, of course, feel for—not only the children but also the parents who must attend to the complex and costly needs of their disabled children.

Obviously, I cannot begin to comprehend the daily challenges of parenting a child with disabilities or special needs. I believe these parents should not be burdened by the need to lobby politicians, educators and others to come to their assistance. One can clearly see from the report the significant time and energy that parents expend on advocating for their children to ensure that they receive an acceptable level of education. The Minister, the department and all education professionals should be commended for their commitment to the education system and to the children most in need. However, having said that, I note that there are inadequacies in the system, which the report clearly outlines. In my view they require investigation, and in some instances immediate action. They must be addressed if we are to ensure equal access to the education system for all children.

As always, appropriate funding is of critical concern to all, including mums and dads and educators. It is the key factor that everyone saw as necessary in order to turn things around. To recommend extra funding is to state the obvious. However, one must note that many other factors can come into play to improve the provision of education to disabled and special needs children. This could include maximising the use of available resources, increasing access to professional support, enhancing teacher training and addressing the demand for special education places, including the many propositions included in the 31 recommendations that this report makes. Funding is important all sectors of the economy, whether it be education, health, roads or infrastructure. Almost all participants in the inquiry argued, as I would, that government funding for students with disabilities and special needs must be addressed if we want all such children to participate fully in all areas of the education system.

As a result of improvements in technology and medical research, more and more people are diagnosed with different forms of disabilities of which we were not formerly aware. So there is growing identification of disabilities and the needs of the disabled. Whether it is autism or dyslexia or any other form of mild or severe disability, it requires an ever-increasing allocation of funds that no State government can meet without the support of the Federal Government. We are advised that the current disability education services budget for New South Wales for 2009-10 is \$1.1 billion. This is almost 13 per cent of the total New South Wales education budget of \$8.577 billion. If this budget were to be raised to, say, 15 per cent, the extra funding would of course be most welcome but would not be sufficient to address the growth in needs and demands for the sector. This is not to be dismissive but to argue that along with increased funding we need alternative innovative approaches to addressing the needs of students with disabilities and special needs.

The call by inquiry participants for an immediate increase in funding for disability education ought to be considered seriously. There must be appropriate levels of funding and resources to ensure that all disabled and special needs children, whether they are in special or regular classes, have the opportunity to reach their full potential. I note that the Hon. Peter Garrett, the Federal Minister for School Education, Early Childhood and Youth, announced as recently as 5 November that he has commissioned advice and strategies that could assist school students with disabilities and special needs in the classroom and at school. I am glad that the Gillard Government has listened to concerns and tasked a small group of educational authorities, teacher unions and educators to provide advice on immediate priorities and strategies to support school students with a disability and special needs. The Minister for School Education, Early Childhood and Youth said that a working group will identify effective priority approaches to improve educational experiences in the classroom and at school for students with a disability. The Minister stated that the number of students with a disability as a proportion of all students is increasing, and this Government is serious about improving their educational outcomes.

I can only recommend that the Minister consider this report and the recommendations outlined in it. I am sure he would find many of the recommendations worthy of consideration and implementation. I note that the Australian Education Union has also welcomed the Federal Government's decision to establish a working group to advise on the needs of students with a disability and special needs. The Federal president of that

organisation, Mr Angelo Gavrielatos, said that a growing proportion of students have special needs and the demand for additional resources is significant in public schools, which educate 80 per cent of students with disabilities.

Therefore, I am pleased that significant movements are being made at both State and Federal levels. All we need now is to see the funding and genuine cooperation by all parties to help our children and to better assist their parents and the community to give them a much brighter future. This has been a great learning process for me, and I thank all inquiry participants for their contributions, including the submission authors, witnesses and the schools that hosted our visits. I thank them all, as I thank all committee members and the secretariat who worked so well to ensure that nothing else was on the table but the interests of the children who need our support.

Dr JOHN KAYE [3.35 p.m.]: I speak on the report of General Purpose Standing Committee No. 2 entitled "The Provision of Education to Students with a Disability or Special Needs", and I do so with great enthusiasm. That enthusiasm is born of the plight of the teachers, the school leaders, the students and their parents in coping with a system that is inadequately funded and resourced. It is born of a sense that it does not have to be this way. It is born of a sense that there is a way, with additional funds and resources and better organisation, to achieve even greater outcomes for those children without the impact that is currently felt by their teachers and their parents.

Ten per cent of children in public education have some form of special need—either a disability or a specific learning need. The New South Wales Department of Education and Training provides about \$1.1 billion each year supposedly to meet those needs. However, it is clear from the submissions we received—from parents, from teachers, from school leaders, from organisations and from academics—that that \$1.1 billion is simply a maintenance solution to providing support for those children and offering an adequate number of placements in both support units and schools for specific purposes. Certainly there are ways that the money can be spent with greater efficiency, and the inquiry recommendations make a number of important suggestions. However, no matter how well we dice up the \$1.1 billion and no matter how efficient the State becomes at allocating that funding, it remains insufficient to provide adequate resources that will secure a strong future for those children.

An exceptional feature of this inquiry was the number, quality and breadth of the submissions—700 teachers, parents, school leaders, academics, community organisations, unions and other agencies made submissions. Among the many that moved me were those from teachers who talked about the day-to-day struggle of coping with a system that is inadequately resourced. At this point I pay tribute to the extraordinary schoolteachers and school leaders who are involved in the provision of education to children with special needs. I have been involved with the Education portfolio for the past 12 years and have had the opportunity to visit a number of schools with support units and integrated classes as well as several schools for specific purposes. To say it is a humbling experience to be in the presence of teachers who cope with the disabilities and special needs of those children is an appalling understatement. I always come away from those experiences very much quietened and reflective about what it means to be a human being, and what it means for teachers to devote themselves so profoundly—body, mind, heart and soul—to their profession, and to caring for and creating a future for those children.

During the inquiry we had the singular honour of visiting the Holroyd School for Specific Purposes. Anne Flint and her staff do a remarkable job, and each of them bears some degree of physical or emotional scarring. They go to work every day with unbelievable enthusiasm and leave with a sense of satisfaction. They are exceptional human beings. We also visited integrated and support classes at Sarah Redfern Public School and Sarah Redfern High School. I cannot speak highly enough of the teachers at those schools and the way they deliver educational outcomes.

I make one specific reference about the language class at Sarah Redfern High School. This class is for children who have delayed language abilities and who find it difficult to communicate. The evidence is clear that children with delayed language skills fail to learn in school and find it difficult to survive in society. Tragically, many of them end up in jail. It is remarkable to watch a class of eight children with one teacher developing language skills. We know that those classes are incredibly successful and that the children go on to become enthusiastic and successful learners. In so doing, they write a new future for themselves and for society. That language class is at risk from the Keneally Government's plans for the school learning support program, which I shall refer to shortly.

I make reference also to a key issue in the report: the inadequacy of both support for integrated children and places for children who need to be in support units or schools for specific purposes. I have already mentioned language classes that are at risk of disappearing, but there is also the issue of hearing support. Children who are deaf are integrated into mainstream classrooms but the maximum they can hope for is three days a week of sign language interpretation. That leaves two days a week when they are in complete silence and have no idea what is going on. People often ask why deaf children are so angry. Clearly they are angry because they are shut out of education as we simply have not allocated the resources to ensure that they can access what is going on in the classroom.

I am very proud of the committee's recommendation with respect to diagnosis and access to placements and resources. Presently this is done on the basis of a medical diagnosis model, which is clearly inadequate. The department, more by accident than by design, has started to develop what is called "functional assessment", whereby a child is assessed not by a specific set of labels but by his or her capacity or lack of capacity in various areas. This not only removes the assessment from typecasting and medicalisation but also deals far more efficiently with co-morbidities from multiple disabilities. Much has been said about children presenting with multiple disabilities and what that means for those children and for resource requirements. It is to be hoped that the department takes on board the recommendation to move ahead with functional assessment where co-morbidities are properly assessed.

The committee heard considerable evidence about the school learning support program, which is currently being trialled. The program is highly controversial and poses a great risk to the future of special needs education. A grave concern with the program is funding specifically for autism on the basis of the proportion of children with autism in the general community. Obviously this creates irrational outcomes, as does replacing specialist teachers with special needs skills with generic disability teachers who are only given access to online learning, and the loss of learning classes. I accept that the program has some positive features but grave concerns would be expressed if it were fully implemented. The trial has been completed and there is to be a review. The committee has called for an independent review of the data to ensure that the review is not conducted in such a way as to deliberately support the implementation of the trial.

The committee heard that schools for specific purposes are remarkable places with wonderful teachers but that they are not funded and staffed for secondary students. This is an insult to the students and the teachers. It is very important that the staffing and funding formulas are corrected. Concerns were raised with respect to behaviour schools and the committee recommended a review of those schools, focusing particularly on ensuring that every child in a behaviour school has access to the full curriculum and is not shut into a primary curriculum. It is a paradox to remove a child from one school and place them in a behaviour school but not give them access to the full curriculum—for example, no access to science laboratories or professional science teachers. That is not a sensible arrangement. I also raise concerns about the national curriculum, which does not make any specific allowances for children with special needs and could well be a step backwards for New South Wales, as it will be for many other areas. I conclude by thanking the committee secretariat, Beverly Duffy, Rebecca Main, Rhia Victorino, Abigail Groves and Christine Nguyen, who, as always, did a remarkable job in both pulling together the report and giving us access to the data and the people we needed to see. [*Time expired.*]

The Hon. MARIE FICARRA [3.45 p.m.]: The inquiry of General Purpose Standing Committee No. 2 is yet another in the long line of parliamentary inquiries into disabilities education, dating back to the McRae report in 1996 and the Vinson report in 2002. It is clear that significant inadequacies remain in our education system, and that for the past 16 years the general disabilities sector, and specifically disabilities education, has been underfunded. Ironically, Premier Kennelly, in her first speech as Premier on 4 December 2009, pledged:

... to put at the heart of my Government a care for the most vulnerable in the community, particularly people with a disability.

I am afraid they were more hollow words from New South Wales Labor. This is a damning performance report; children are not achieving their full potential because of inadequate resourcing by government and non-government schools. Pressures on our educational system will continue to grow as infant survival rates improve and more sensitive diagnostic tools for mental health disorders and autism lead to an increase in identified students with disabilities or special needs. Overwhelmingly, the committee heard the same message loud and clear from the 700 submissions and more than 70 witnesses: we need to increase funding for students in both sectors, including schools for specific purposes.

In 2009-10 the New South Wales disability education services budget was \$1.1 billion, or 13 per cent of the total education budget. We urge the Kennelly Labor Government to increase this funding as soon as

possible to allow better participation by these students within our education system in accordance with our legal obligations under the United Nations Convention on the Rights of People with Disabilities. The shift in education policy over recent years has provided us with a more integrated model. Principals, teachers, support staff and particularly parents are doing all they can to provide a safe and inclusive learning environment for students with disabilities and special needs. However, we are aware that the 32,550 students with disabilities and 50,000 students with special needs enrolled in our mainstream schools are not receiving the resources they need.

Recommendations made by this committee will assist in achieving a more effective utilisation of available resources, especially in relation to the role of the school learning support teams. The quality and effectiveness of these teams vary from school to school—in fact, in some schools they are absent. We believe the Department of Education and Training should resource every mainstream government school with a school learning support team and fund sufficient additional teacher time to ensure no disruption occurs to the school's other activities. The Department of Education and Training should publish guidelines on the functions and outcomes of these teams, including the role of parents, for distribution to school communities.

It became evident from so many of the witnesses, teachers, parents and professionals who appeared before the committee that assessment of functional skills as well as confirmation of a diagnosis should be used to determine a student's access to disability funding—a diagnosis on its own does not give an accurate enough picture of a student's learning needs. Thus the committee recommended that the Department of Education and Training move rapidly towards the development and application of an independently monitored functional assessment tool in order to better inform decisions regarding access to disability funding. More transparency surrounding assessment decisions is required from the department for families, carers and schools. Such information needs to be communicated in a clear, timely and sensitive manner. Requirements to reconfirm disability status on an annual basis when levels of need are unlikely to vary were seen as burdensome and inefficient. The department has been asked to review and improve these requirements.

In 2009, 3,882 students were enrolled in schools for specific purposes and 13,662 students were enrolled in support classes in regular schools. Parental choice must remain as the key factor in placement decisions. Until students in mainstream classes are provided with sufficient resources to integrate and be supported, parents will continue to seek special education places for their children. There is a widespread community concern regarding the lack of special education places, and the Department of Education and Training should immediately investigate the level of unmet need, publish the results, and respond appropriately to increase the number of special education places and classes. A comprehensive evaluation is needed of behavioural schools, the time that students spend in these schools and access to appropriate curriculum and secondary school facilities.

Regarding support in mainstream schools, the committee recommended that the department expand the Learning Assistance Program. The proposed School Learning Support Program currently being trialled in the Illawarra and the south-east region is a positive move because it provides on-the-ground expertise and guidance to both teachers and the school learning support team to better address the individual learning needs of students. Such positions should be filled by teachers with, or in the process of obtaining, special education qualifications. The committee recommended sector-wide consultation prior to any decision being made by the Department of Education and Training to roll out this program and that an independent formal evaluation of the program be conducted one year into its final operation.

Recommendations relating to other concerns expressed during the conduct of our inquiry involve improving the assessment process for individual disability funding; increasing access to professional support such as speech therapy, physiotherapy and counselling for students and parents; and enhancing teacher training in the field of disabilities education. We recommended that the Department of Education and Training coordinate multidisciplinary teams on a regional basis to deliver professional and allied health services. We feel that this will better assist families compared with the current provision of services by multiple agencies.

Like earlier inquiries, we again draw attention to the lack of access to school counsellors to meet the assessment of students with disabilities and special needs as well as welfare support. In particular, we highlight the recent recommendation from the coronial inquest into the tragic death of a young person who was a victim of bullying. The Coroner recommended that the State Government increase the ratio of school counsellors to students to 1:500, and this is strongly supported by the committee. This Government's silence on the matter is damning. Individual education plans are effective but it is recommended that the Department of Education and Training provide teachers with additional resources, including relief time for their development. Proposed guidelines for these plans should be distributed more widely to school communities and parents. The committee

also recommended that the New South Wales Institute of Teachers review its pre-services teacher training to incorporate strategies and practical skills to better equip more teachers with special education skills. Greater participation in special education retraining courses should also be a current objective of the department.

In conclusion, I pay tribute to the real heroes in our community—the parents, teachers, advocacy organisations, academics and clinicians—for the care they give, day in and day out, to students with disabilities and special needs. I acknowledge the sincere efforts of the committee chair, the Hon. Robyn Parker, and my fellow parliamentary colleagues. Importantly, I acknowledge the professionalism and hard work of the committee secretariat—namely, Beverly Duffy, Rebecca Main, Rhia Victorino, Abigail Groves and Christine Nguyen. I commend the report to the House.

The Hon. ROBYN PARKER [3.55 p.m.], in reply: I will respond to the comments of members of General Purpose Standing Committee No. 2 who have made great contributions not only today but also during the inquiry. I wholeheartedly support their remarks. I acknowledge the deputy chair of the committee, the Hon. Christine Robertson, who has not spoken today but who participated in the inquiry with the same level of commitment, involvement and interest that she demonstrates in all committee inquiries. I thank the other committee members—the Hon. Shaoquett Moselmane, the Hon. Tony Catanzariti, Dr John Kaye, Reverend the Hon. Dr Gordon Moyes and the Hon. Marie Ficarra—for their commitment to the inquiry.

As committee members have said, the inquiry is about providing increased support and funding for students with disabilities and special needs. More than that, it is about addressing unmet needs, effectively using the resources that are available, and redressing the imbalance between educational services provided in rural and regional areas and those provided in metropolitan areas. But more than anything, it is about offering support, guidance, and reassurance with certainty and transparency to the parents and teachers of students with disabilities and special needs and, most importantly, to the students themselves, day in and day out.

I commend the report to the House, and I look forward to the committee's recommendations being acted upon and resulting in the delivery of practical outcomes in our education system. It is important that we see that this report has informed the process and assisted in addressing unmet need. Let us hope that there is no need for another such inquiry in years to come—that this is one of the last inquiries into these issues. Let us hope that we get it right, prioritise funding, prioritise access and support, and make sure that students with disabilities and special needs get the best of government resources, government planning and commitment, and bipartisan support.

One committee member spoke about the Federal sphere and about what Minister Garrett might or might not do. This is about lobbying for increased funding from the Federal Government. It is about making sure that the Federal Government is not left out of the loop in terms of providing increased support for disability funding. I acknowledge that providing such support requires a lot of money, but the Federal Government should not be let off the hook in terms of commitment and funding. Ideally, that is where the government of the day needs to target some of its energies, in order to ensure that that funding trickles down. It is not just about funding, more money or more teachers; it is about using effectively the resources available. In conclusion, I thank the staff of the committee secretariat and committee members. I also thank committee members for their contributions today. I look forward to seeing the committee's report acted upon, and I commend it to the House.

Question—That the House take note of the report—put and resolved in the affirmative.

Motion agreed to.

GENERAL PURPOSE STANDING COMMITTEE NO. 5

Report: Inquiry into the RSPCA raid on the Waterways Wildlife Park

Debate resumed from 9 September 2010.

The Hon. IAN COHEN [4.00 p.m.]: I take note of the inquiry into the RSPCA raid on the Waterways Wildlife Park. The inquiry, established by a motion of the Hon. Rick Colless, investigated the RSPCA inspection and removal of koala and lizards from the Waterways Wildlife Park at Gunnedah. I wish to review some of the recommendations of the committee to ensure absolute clarity about the findings. Importantly, the report found that the decision by RSPCA inspectors to remove animals on 3 February 2010 from the Waterways

Wildlife Park was motivated by genuine and valid concerns about the welfare of the animals. This fact was overlooked by some media reports that disproportionately seized on parts of the committee's recommendations. Disappointingly, a very small minority of journalists have unfairly misrepresented the findings of the inquiry.

It is always sad when parliamentarians undertake committees, going on fact-finding missions in a multi-partisan and open-minded manner, only to have journalists misrepresent the findings of an inquiry. While the committee has made a finding that the RSPCA seized animals from the wildlife park based on valid concerns, it does not wish to detract from the contribution of the park owners, and longstanding Gunnedah residents, Colin and Nancy Small, who have operated the park and cared for injured animals for many years. On behalf of the committee, I acknowledge the Small's continuing contribution to the community.

One thing I found disappointing about the inquiry was some of the vitriolic and vexatious allegations made about the RSPCA by a small minority of the people who made submissions. Unfortunately some tried to use this inquiry as a platform to attack the RSPCA without any real substance on issues totally unrelated to the Waterways Wildlife Park. While the committee did find room for improvement in departmental and RSPCA protocols, it would be fair to say the inquiry vindicated the actions of the RSPCA in removing the animals. Recommendation No. 1 states that the RSPCA standard operating procedures should include a requirement that when an inspector identifies the need for urgent veterinary intervention, the nearest suitably qualified veterinarian be called upon to provide emergency examination and treatment.

The first recommendation of the committee arose from evidence explaining the delay in the RSPCA returning to the Waterways Wildlife Park following its initial visit in January 2010, which was partly due to the difficulty in coordinating the various experts and government representatives from the Department of Industry and Investment and the National Parks and Wildlife Service.

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

Pursuant to sessional orders debate on the budget estimates proceeded with.

BUDGET ESTIMATES AND RELATED PAPERS

Financial Year 2010-2011

Debate called on, and adjourned on motion by the Hon. Lynda Voltz.

AUSTRALIAN JOCKEY AND SYDNEY TURF CLUBS MERGER BILL 2010

TOTALIZATOR AMENDMENT BILL 2010

Second Reading

The Hon. PENNY SHARPE (Parliamentary Secretary) [4.03 p.m.], on behalf of the Hon. Peter Primrose: I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

Leave granted.

The main purpose of the bills before the House is to facilitate the merger of the Australian Jockey Club and the Sydney Turf Club into a new racing club incorporated under the Corporations Act and to amend the Totalizator Act 1997 so that betting activities in respect of computer simulated horseracing harness racing and greyhound racing events may be approved under that Act.

Before going to the detail of the bills I wish to acknowledge the tireless commitment to the merger of Mr Ron Finemore and Mr Bill Picken the Chairpersons of the AJC and STC. It is similarly appropriate to acknowledge all of the Directors and the Chief Executives Mr Michael Kenny and Mr Darren Pearce of the two Clubs.

Mr Alan Brown Chairperson of Racing NSW his Board members and Chief Executive Mr Peter V'landys are also staunch supporters of the merger and have enthusiastically given many hours to the proposal.

These industry leaders must be lauded for their vision and their personal efforts which have resulted in a cooperative approach to a complex issue.

I also wish to include in Hansard that the Chairpersons of the AJC and STC have separately written to the Minister to advise that their Boards support the merger proposal and that they have anticipated the Government's legislation by taking the first steps to register the proposed merged club as a new company under the Corporations Act.

These proposals underpin the biggest step in securing the future viability of the New South Wales racing industry which is the home of racing in Australia.

Put simply the proposed reforms and accompanying investment in racing infrastructure and spectator facilities are essential to the future viability of the New South Wales thoroughbred racing industry.

A strong Sydney racing sector is the jewel in the crown of New South Wales racing and its economic strength has a flow on effect to country and provincial racing and to the estimated fifty thousand racing jobs both full time and part time throughout the State.

Our major races and carnivals headline the national and worldwide interest in New South Wales racing. Racing is one of the State's most significant industries and as a provider of regular major events attracts significant benefits to the State's economy.

The lead bill is the Australian Jockey and Sydney Turf Clubs Merger Bill 2010. The merger bill formally provides for seven objects which I will state and describe in detail.

The first object of the merger bill is to facilitate the merger of the AJC and the STC into a new racing club incorporated under the Corporations Act.

The two clubs have of their own volition taken the first steps to register a new company for that purpose.

The bill assists that process by providing for the orderly transfer of the business undertakings and certain assets rights and liabilities and employees of the former clubs to the new merged Club.

The merger of the AJC, which is a company incorporated under the Corporations Act, with the STC, which is a body created by New South Wales statute, is generally a complex subject which has required obtaining expert advice from the Crown Solicitor's Office.

The bill addresses these matters and the procedure provided in clauses 8 to 9 of the bill is that the Minister is to make an order to be published in the gazette to declare the company to be the merged racing club.

The Minister's order may declare a company to be the merged racing club and also specify a day as the merger finalisation day but that may occur only if the company is registered in this State pursuant to the Corporations Act and a copy of the constitution of the company has been provided to the Minister and the Minister is satisfied that the constitution of the company includes certain mandatory corporate governance provisions.

Subclause 8 (6) of the merger bill also provides that the Minister's order if made in accordance with the requirements of the provision cannot be challenged.

This provision is to ensure that once the process is undertaken there is protection for the racing industry from a costly and self-destructive challenge to the merger by an element which is not acting in the overall best interests of the racing industry.

The issue of mandatory corporate governance provisions is addressed in detail later.

In summary the prudent effect of these provisions is that there is no merger unless the AJC and STC have registered a new company for the purpose and that there is a new constitution in accordance with the mandatory governance provisions required by the bill and that a new board is in place for the new merged club.

The House may note that subclause 12 of clause 10 enables the appointments process for foundation board directors to commence before the merger. This will enable a full board for the new merged club to be in place as soon as possible.

Separately clause 7 of the bill provides an authorisation for the Minister on behalf of the State of New South Wales to enter into an arrangement with the relevant parties for the provision of financial assistance for the purpose of making improvements to Randwick racecourse and Rosehill Gardens.

The bill proposes that these arrangements be specifically authorised for the purposes of the Trade Practices Act 1974 and the Competition Code of New South Wales.

The relevant parties for the purpose of this provision are Racing NSW, Tabcorp Holdings Limited and the merged racing club.

This provision of the bill will give comfort to many of the concerns of the parties involved in this proposal. The concerns have been reduced to the form of agreements and are recognised by the proposed legislation.

In addition any further concerns relating such as for example the detail of the management of the merged racing club's race program across the racecourses under its control are matters that would appropriately be dealt with by the new board. This would be dealt with in accordance with the new board's responsibility to manage the affairs of the new company.

It should also be recognised that a merger agreement has been entered into between the AJC and the STC addressing a number of issues of concern including the protection of races and prize money.

The issue of funding arrangements is addressed later.

The second object of the merger bill is to make provision in relation to the corporate governance arrangements of the merged racing club.

Apart from the economic benefits of the merger itself the other main benefits from the legislative package are the reforms which provide for a modern company structure and the appointment of independent directors selected on merit in accordance with prescribed skills criteria.

Clauses 6 and 10 and schedule 1 to the bill do this by providing for mandatory corporate governance provisions to be included in the constitution of the new Company.

The principal mandatory governance arrangements are in relation to the structure and functions of the new merged racing club and to the appointment process for its directors.

Clauses 6 and 44 of the bill are included as a result of expert legal advice in relation to the displacement and exclusion of Commonwealth Corporations legislation and to ensure that the New South Wales law operates alongside the Commonwealth law.

Essentially they facilitate the mandatory inclusion of the prescribed governance arrangements in the constitution of the merged club. The balance of the merged club's constitution will otherwise be in accordance with the normal operation of the Corporations Act.

The foundation board of directors is to consist of nine members seven appointed for four years and two to retire after 12 months. After the implementation tasks are completed one AJC and one STC Director are to retire. Board members elect their chairperson and deputy chairperson by simple ballot.

The AJC and STC are to appoint three members each to the foundation board. The AJC has indicated its intention to appoint Mr John Cornish, Mr Alan Osburg and Mr Bill Sweeney.

The STC has indicated its intention to appoint Mr Wilf Mula, Mr Michael Crismale and Mr Max Whitby.

I thank the AJC and STC for putting forward such passionate well credentialed and capable individuals to form part of the team which is to manage the merger implementation.

The remaining three members of the new merged club's board will be independent directors. The independent directors are appointed by the Minister on the recommendation of an appointments selection panel.

For the foundation board of the merged club the selection panel of three will consist of a person nominated by the chairperson of Racing NSW and a further two persons nominated by the AJC and STC board of directors.

The bill provides that the appointments selection panel is subject to the following requirements.

The panel must make a recommendation on the basis of merit.

The panel must also base its selection in accordance with the requirement that a candidate must have experience in a senior administrative role or experience at a senior level in one or more fields of business finance law marketing technology commerce regulatory administration or regulatory enforcement.

AND ... the panel is to be assisted by a probity adviser appointed by the Minister.

In addition, by agreement between the members of the selection panel the first appointment process will be subject to the requirement that a recommendation for the appointment of an independent director will be unanimous.

After the foundation board there are similar separate arrangements for independent and elected directors of the merged racing club.

Subsequently the merged racing club's constitution is to provide that the company may at any time by resolution passed in general meeting elect a person to be a director of the company to replace a director initially nominated by the AJC or STC or later elected by members who has vacated office.

For the independent directors the appointments selection panel process is retained but the membership of that panel is altered as the AJC and STC will no longer exist and cannot nominate panel members.

Accordingly the subsequent appointments selection panel is to consist of a person nominated by the Chairperson of Racing NSW and the merged club's board is to nominate the other two persons with one being one of the independent directors and the other not an independent director.

The third object of the merger bill is to provide for the functions of the merged racing club in relation to Randwick racecourse and certain other racecourses being Rosehill Gardens, Warwick Farm and Canterbury Park.

The management and control of the business affairs and affairs of the company which underpins the new merged club are vested in the board of directors.

The directors of the company will in accordance with the normal practice settle the objects of the company which are to be included in the constitution.

Clause 36 and schedule 3 of the bill also provides for the carry forward of relevant by-laws.

The fourth object of the merger bill is to provide for the granting of further leases over Randwick racecourse.

The Randwick racecourse complex will continue to be Crown land managed on behalf of the State by the Randwick racecourse Trustees who are appointed by the Governor on the advice of the Executive Council.

The trustee arrangements and the 99 year lease of Crown land made in favour of the AJC in 2008 are to be carried forward by clauses 32 to 34 of the bill on exactly the same terms and on the basis that the new merged club is the successor to the AJC for these purposes.

The fifth object of the merger bill is to provide for the repeal of the Australian Jockey Club Act 2008 and the Sydney Turf Club Act 1943.

Clause 39 (1) of the bill provides that the Australian Jockey Club Act 2008 and the Sydney Turf Club Act 1943 cease to have effect on the merger finalisation day.

The merger finalisation day is declared by ministerial order subject to the preconditions defined earlier.

The procedure has been adopted to facilitate the orderly implementation of the merger.

The procedure will also permit some matters to be properly decided by the board of the new merged club. Such matters include the management of the rights of existing members in terms of future membership entitlements and the name of the new merged club.

Clause 39 (2) of the bill provides that on or after the merger finalisation day the Governor may by proclamation repeal the existing two Acts.

The sixth and seventh objects of the merger bill provide for matters of a savings and transitional nature and for consequential amendments to other Acts and instruments.

Clauses 11 to 27 of the bill provide for the transfer of the business undertakings of the AJC and STC to the new merged club.

As a general principle the implementation of the merger is on the basis that the AJC and STC should not be disadvantaged by that process.

The opportunity has also been taken to carry forward the entitlements which are described as regulatory authorisations of each club forward so that they apply to the new merged club.

A major such entitlement is the 99 year lease in relation to Randwick racecourse which I dealt with earlier.

Other examples include the various racecourse licences and authorisations however described pursuant to the Liquor Act 2007 and Registered Clubs Act 1976.

Included in these provisions are certain matters which are worthy of a special mention.

Clause 14 of the bill provides generally for the transfer of regulatory authorisations a matter mentioned earlier.

Clause 14 (3) also enables the future merged club to have a different secretary or chief executive officer for the purposes of the Liquor Act and the Registered Clubs Act for each racecourse under its control.

This relaxation of the rules will continue to ensure that there is appropriate accountability under the Liquor Act and Registered Clubs Act nothing will change there is no diminution of club responsibilities.

The proposal is a practical response to the problem of a single chief executive of the new merged club that will already be responsible for multiple racing venues being burdened with registered club and liquor responsibilities.

The proposal recognises that it is more efficient and provides for greater accountability if there are separate registered club managers for each venue.

Clause 22 of the bill relates to the rights of the employees of the AJC and STC. The provision safeguards their employment and related conditions and entitlements by providing that these are automatically transferred to the new merged club. The Board of the new club will then be responsible for determining the needs of the future club.

Clause 23 of the bill provides for a ten year moratorium on the sale of certain racecourse land which becomes vested in the merged club.

The clause has been expressed in terms of other than Randwick racecourse and Warwick Farm. This is because the former is Crown land and simply cannot be sold by the merged club and the latter is excluded in recognition of a pre-existing arrangement relating to the establishment of the Inglis complex at Warwick Farm.

This is a safeguard which has been included at the explicit request of the AJC, STC and Racing NSW to demonstrate that there is no intention to resort to a fire sale of land.

Clauses 24 (6) to (8) of the bill provide for the preservation of AJC and STC members' entitlements. The merged racing club is specifically required to make provision for the admission of a person as a member of that club if the person was a financial member of the AJC and STC.

The provision has been framed in that manner to enable the board of the future club to manage the future membership categories available to members.

Clauses 39 to 49 and schedules 2 and 3 to the bill provide for a number of savings and transitional matters which are mostly of a routine nature and which have been included in accordance with legal advice.

Some of these such as the provisions relating to the declaration of the merged company and the merger finalisation day and the matters relating to the provisions of the Corporations Act were dealt with earlier.

Clause 40 of the bill provides an explicit reminder that the merger bill is intended to be subject to the provisions of the Racing Administration Act 1998 and the Thoroughbred Racing Act 1996.

Nothing in the proposal alters the status of the merged club nor its responsibilities to comply with the provisions of the two Acts mentioned.

Clause 49 of the bill provides for the review of the Act after three years of operation by the Minister and the tabling of that review in Parliament.

The Totalizator Amendment Bill 2010 is cognate to the merger bill. The reasons for that are that it has a role in relation to the financial arrangements that are referred to in clause 7 of the merger bill.

I indicated earlier that the main purpose of the Totalizator Amendment bill 2010 is to amend the principal Act so that betting activities in respect of computer simulated horseracing harness racing and greyhound racing events may be approved under that Act.

Schedule 1 to the amendment bill proposes to include after section 13 (2)(b) of the Totalizator Act that computer simulated horseracing, harness racing or greyhound racing events are matters that may be approved by the Minister as betting activities.

The approval for this purpose is intended only for use in TAB retail outlets, which are TAB agencies, PubTAB and ClubTAB outlets.

The amendment bill provides for any approval for this purpose to be for an exclusive period until 6 March 2007.

Schedule 1 to the amendment bill also includes a provision which enables the Minister to make a determination in respect of the racing distribution agreement, and also the thoroughbred intra-code agreement. This is a safety net provision to ensure that the Minister may direct that changes be made to the agreements where the Minister determines those changes are necessary or desirable for ensuring that the agreement is in the best interests of racing in New South Wales. The Minister's power of determination expires on 31 January 2011.

There is also an express statement in clause 117C of the amendment bill which provides for the Provincial Association of New South Wales and Racing NSW Country to receive from Racing NSW the normal funding entitlement that would have been available from Trackside to those bodies.

The Minister has agreed with the Opposition racing spokesman that it is appropriate to underpin in this way the entitlement from Trackside for Provincial Association of New South Wales and Racing NSW Country.

Schedule 2 to the amendment bill revokes the earlier authorisation of such computer simulated games as a gaming machine.

Schedule 2 to the amendment bill also amends the Betting Tax Act 2001 to provide that no betting tax is payable on net earnings in connection with the first \$255 million of bets placed on computer simulated horse, harness and greyhound racing events with TAB Limited in any financial year. This arrangement is to expire at the end of the 2033-34 financial year.

The proposal will enable a computer generated simulated racing game such as the existing Trackside game which operates in Victoria to be introduced into New South Wales TAB outlets.

The Trackside game is owned and operated by Tabcorp and enables players to place TAB style bets on the outcome of simulated thoroughbred harness and greyhound races which are displayed as computer generated graphics on in-venue television screens.

The game has been designed to closely resemble the normal TAB racing and wagering experience with the traditional TAB betting options win place quinella and trifecta available. Trackside is intended to operate as part of or adjacent to the TAB facilities in any wagering venue.

The game is operated by a central host computer at Tabcorp's Melbourne headquarters. A random number generator is used to determine the result. Each race has 12 runners and the odds for each contestant remain constant across all races that is contestant number 1 is always the favourite contestant number 2 the second favourite and so on.

Each runner's return is in accordance with its probability of winning with the take-out from the game averaging around 19 per cent and the return to player around 81 per cent.

Customers place bets by marking their selections on betting tickets and feeding them into a TAB betting terminal in the same manner as a normal TAB bet.

The computer simulated races and associated race information are transmitted into TAB venues over the Sky Channel satellite infrastructure and displayed on dedicated television monitors.

In New South Wales the Trackside game is currently designated as a multi-terminal gaming machine unlike in Victoria where it has operated since 1999 under the classification of a wagering product.

The popularity in New South Wales of the Trackside game has been limited and in recent years only two venues have operated the game namely Star City Casino where it ceased operation in November 2008 and the Bankstown Sports Club which removed the game in June 2007.

The bill would revoke the earlier classification of Trackside as a gaming machine and permit the Trackside game to be conducted as a wagering product. Under this designation the game can be offered to customers in dedicated TAB agencies or in TAB outlets in hotels and licensed clubs.

The game is currently available in over 570 Victorian TAB venues and is a popular service with many traditional TAB race wagering customers.

Tabcorp has requested that the Government reclassify the Trackside game as a wagering product for use in New South Wales along the same lines as it is provided in Victoria. This request has the support of the New South Wales Racing industry the Australian Hotels Association (NSW) and ClubsNSW.

Separately the Alan Cameron Wagering Review recommended that the Government treat electronic gaming devices not linked to racing as a wagering activity rather than gaming. This recommendation related to the Trackside game.

Prior to the introduction of the game into TAB outlets Tabcorp will be required to obtain ministerial approval for appropriate rules of betting. Tabcorp will also need to satisfy the Office of Liquor, Gaming and Racing that the regulatory arrangements such as those currently in place in Victoria will provide appropriate controls over the conduct of the Trackside game.

These controls will ensure that appropriate responsible gambling policies and practices are in place and also that the correct amount of Trackside revenues are returned to persons who might bet on the game and also that Government and racing industry revenues are correct.

Based on its Victorian operations Tabcorp projects the Trackside game betting turnover to be over \$130 million in its first full year of operation increasing to over \$220 million in the second year and more than \$230 million when fully established in the third year.

I mentioned earlier that clause 7 of the merger bill authorises the Minister under the Trade Practices Act 1974 and the Competition Code of New South Wales to enter into financial arrangements for the provision of financial assistance for the purpose of making improvements to Randwick racecourse and Rosehill Gardens racecourse.

Clause 7 similarly also authorises the conduct of the relevant other parties for the purpose of negotiating and entering into any such arrangement.

The relevant parties are defined by the bill as Racing NSW Tabcorp Holdings Limited and the merged racing club.

The arrangements in question relate principally to the application of Trackside revenues.

The proposed arrangements were announced on 22 July 2010 with the expectation that projected revenues would fund a loan of up to \$150 million for improvements to Randwick racecourse.

The announcement spoke of a funding package of \$174 million and the additional \$24 million is a Government grant dedicated to improvements to Rosehill Gardens.

The arrangements announced in July have been overtaken as a consequence of Tabcorp proposing to provide Racing NSW with \$150 million in two instalments to fund the infrastructure improvements at Randwick racecourse.

The new arrangement minimises any commercial risk to the tax payer as all of the \$150 million is to be funded by Tabcorp.

As a consequence of Tabcorp shouldering the commercial risk and foregoing the opportunity to invest its funds elsewhere both Racing NSW and the Government have agreed to concessions to recognise the burden on Tabcorp.

Racing NSW will forego its annual Trackside payments from Tabcorp. The other two codes of racing will receive their share as provided for under the racing distribution agreement.

The Government will provide Tabcorp with exclusive operation of Trackside until 6 March 2097 and a wagering tax free threshold of up to \$5 million per year until the end of the 2033-34 financial year.

These arrangements will underpin the \$150 million facility which will fund improvements to Randwick racecourse to provide two new state-of-the-art grandstands which will more than double seating capacity and provide first class spectator facilities function space restaurants and corporate boxes.

In addition there is to be a new 4,500 seat multi-purpose Theatre of the Horse parade ring which will enable the public to have a front seat race day experience.

Separately the Government grant of \$24 million is to fund dedicated improvements at Rosehill Gardens including refurbishment of the Fleming stand a vehicle access bridge and tunnel link to the infield car park a new main entry and pedestrian railway bridge from James Ruse Drive a new pedestrian bridge over James Ruse Drive and a demountable infield concert stage and a new infield display screen.

The proposed refurbishments and redevelopments are to be the subject of a racecourse development agreement between the new merged club and Racing NSW. Racing NSW will monitor progress of the projects and regularly report on progress of works and expenditures to Government and to racing industry participants.

Racing NSW will ensure that there is appropriate accountability and that expenditures are in accordance with approvals and also in accordance with the principle of value for money.

I have advised the House that the AJC and STC support the merger proposal and the detail of the financial arrangements which includes appropriate accountability measures that underpin the redevelopment of Randwick racecourse and also Rosehill Gardens.

I have also advised in detail about the provisions in the merger bill that provide for the merger of the AJC and STC and related matters.

The remaining and most important matter is why it is essential to proceed with the reforms and the associated funding package.

The New South Wales racing industry is a significant employer and it also makes a significant contribution to the State's economy. I will not repeat the figures; they were provided earlier.

The racing industry operates across the State with a significant number of its 200 racecourses outside the Sydney metropolitan area.

Racing is community based and all race clubs must have a non-proprietary basis if they are to be registered by the relevant controlling body.

Despite increasing competition from other sports and entertainment opportunities the popularity of New South Wales racing ranks favourably relative to other sports. The Australian Bureau of Statistics estimates, on the basis of persons who attended one or more times in a year, that attendance at race meetings is second only to attendance at rugby league matches.

As a community we love our sport and our racing.

The competition for the wagering dollar and the entertainment dollar generally has imposed a significant burden on the racing industry to promote and conduct its business affairs with a view to ensuring future viability.

The recent Cameron report, which examined wagering trends and the future sustainability of the New South Wales racing industry, noted among other matters that New South Wales is a high tax jurisdiction for the purposes of wagering taxation.

Based on the tax for every \$100 wagered, in New South Wales and Victoria the rate is \$4.50, in Western Australia it is \$3.50, in Queensland it is \$3.20, in New Zealand it is \$2.90, and in South Australia it is \$2.40.

Coupled with revenue streams that are declining in real terms, the racing industry is facing the prospect of reduced distribution payments to race clubs, which in turn will result in reduced prize money levels.

The uncertainty of revenue levels means that the racing industry cannot guarantee its current prize money distribution let alone guarantee its infrastructure funding needs.

The policy response across Australia has been to introduce governance reforms, reduce wagering taxes, provide infrastructure funding, and introduce race fields legislation.

In Queensland there have been several reforms the first of which was the 2009 merger of the two Brisbane metropolitan clubs. The merger was followed in July this year by the restructure of the three code controlling body structure into a single controlling body, Queensland Racing. This was accompanied by \$80 million of funding over four years specifically for racing infrastructure.

In South Australia in 2008 the Government introduced a phasing-out of wagering taxation, which reduces annually from 6 per cent that year to zero in 2012.

The South Australian Government in the same year also provided one-off funding of \$11 million for racing infrastructure purposes.

Since 2000, metropolitan racing in Adelaide has been discontinued at the former Cheltenham and Victoria Park racecourses and racing continues at the redeveloped Morphettville racecourse.

The ACT and Northern Territory governments have established a regime of low wagering taxation, and unlike other Australian jurisdictions appropriate an annual amount from their budget to their local racing industries.

In Victoria there have also been several reforms relating to the rebate of wagering taxes for premium customers and also government guarantees to replace gaming machine revenues that previously accrued to the Victorian racing industry.

The Victorian Government has also funded various infrastructure projects including a multimillion-dollar grant for new running rails.

Of particular significance to this State is the 2009 Maxstead report, which recommends the merger of the Melbourne metropolitan racing clubs. The report states that it is not an option in terms of guaranteeing future viability to do nothing.

While the Melbourne racing clubs have not disclosed their intentions, it is understood that the matter is under consideration.

In New South Wales the 2009 Ernst and Young report, the L.E.K. report and the merger benefits team all concluded that the merger of the AJC and STC was of benefit to the racing industry and the economy of New South Wales.

While there were varying views about the quantum of the benefits there is unanimous agreement that a modern corporate governance structure as proposed by this bill will maximise the benefits to all segments of the New South Wales thoroughbred racing industry and to the State's economy and its annual wagering tax receipts of approximately \$160 million exclusive of GST.

Not supporting this bill and effectively doing nothing will result in this State's racing industry falling behind the industry in other States. The inevitable conclusion is that it will damage the future viability of our racing industry and effectively abandon racing industry participants.

The Keneally Government recognises the importance of the racing industry in terms of its employment and economic contribution to the State and its importance to the people of New South Wales.

The Keneally Government is a strong supporter of the racing industry and has implemented many initiatives to ensure the long-term viability of that industry.

Apart from the merger proposal the other major reforms include the race fields legislation and defending the validity of that legislation before the court, the reform of the corporate governance structures of the racing controlling bodies, which includes the independent board member structure, and one controlling body for each of the three codes of racing.

I commend the bills to the House.

The Hon. RICK COLLESS [4.04 p.m.]: I lead for the Opposition on the Australian Jockey and Sydney Turf Clubs Merger Bill 2010 and the Totalizator Amendment Bill 2010. The Opposition supports these bills. The Australian Jockey and Sydney Turf Clubs Merger Bill 2010 represents a major opportunity to significantly improve racing facilities in Sydney and across New South Wales, as well as boost the contribution made by all forms of racing to the State's economy. For too long the New South Wales racing industry has sat idle, allowing self-interest and mismanagement to triumph. The end result is that while race clubs in Melbourne are viewed as some of the best in the world, racecourses in Sydney have been allowed to lag badly behind their competitors. Under this Government, like most things in this State, the local racing industry has suffered from incompetence and mismanagement. The Government has failed to properly invest in the basic infrastructure and development needed to facilitate the growth of the New South Wales racing industry.

This merger will result in an injection of some \$174 million into the State's top race facilities, and will ensure that racegoers in New South Wales can enjoy a truly top-notch race day experience. For those racing fans who attend the Randwick racecourse, significant improvements will be made to the track through the injection of \$150 million in government funding, which is aimed at improving and broadening the appeal of racing. Major improvements will be made to help racegoers enjoy the social aspects of a day at the races by the addition of two new multipurpose grandstands. They will double the seating capacity and feature world-class members, spectators, dining and entertainment facilities.

The construction of convention and exhibition space, as well as a hotel development, will also ensure that Randwick racecourse can cater for more than just the usual calendar of horseracing events. Among these developments will be a Theatre of the Horse parade ring, which will provide members of the public with a front-row seat race-day experience. Improvements to stabling facilities and substantial track upgrades will also be a welcome step to ensure that the facilities are absolutely first-class for horses, jockeys and trainers. Those racegoers who currently flock to Rosehill racecourse will not be left out of the significant spoils this merger will bring, with \$24 million set aside to be spent on upgrading facilities at the venue. This merger will deliver enormous benefits to the racing industry.

The board of the new club will initially comprise three persons nominated by the Sydney Turf Club and Australian Jockey Club boards, together with three independent directors selected by a panel on the basis of merit and skill. The board will be reduced to seven after the first 12 months, with the retirement of a member from each of those former clubs. The tenure of the board will be for four years, although a review of the legislation will occur after three years to re-examine the final appointment mechanism. The panel will comprise nominations of the initial board from the Sydney Turf Club, the Australian Jockey Club and Racing NSW. Subsequently, the panel for selection of independent directors will comprise two directors from the merged club and a representative from Racing NSW. Subject to the review, any appointments in the meantime will be in accordance with the club's constitution by an election of members. The merger bill provides a 10-year moratorium on the sale of Canterbury Park and Rosehill Gardens racecourses. The Australian Jockey Club did not require a moratorium for the Warwick Farm Racecourse, and Royal Randwick is held under Crown lease, with the Randwick racecourse trustees continuing.

The Totalizator Amendment Bill 2010 will reclassify Trackside—a multi-terminal gaming machine—as a wagering product. These machines can be installed in a hotel or a club through the sacrifice of five poker

machine entitlements—one for each terminal. Trackside, as a wagering product, will be able to be offered in all TAB outlets, including PubTAB, ClubTAB and TAB agencies, as part of the TAB's offerings but without the sacrifice of poker machine entitlements. The bill will enable the Minister to give approval for the conduct of computer-simulated horse, harness and greyhound races under the Totalizator Act 1997 for the period of the existing franchise to 2097.

The bill also enables the Minister to make a determination in respect of the Racing Distribution Agreement of 1997 between the three codes—thoroughbred, harness and greyhound—and TAB Limited. Until 31 November 2011 the Minister may direct that changes be made to the Racing Distribution Agreement where the Minister determines those changes are necessary to ensure that the agreement is in the best interests of racing. The bill also amends the Betting Tax Act 2001 to provide that no betting tax is payable by TAB Limited on net earnings from the first \$225 million of turnover bets placed on Trackside in any financial year. Net earnings above that figure in any year are subject to tax and are equivalent to a tax threshold of \$5 million.

The Racing Distribution Agreement will distribute new funds from totalizator operations in the ratio of 70 per cent to the thoroughbred code, 17 per cent to the harness code and 13 per cent to the greyhound code. That is enshrined for 100 years in the TAB Privatisation Act 1997. An additional agreement called the intra-code agreement distributes the thoroughbred code's share of funds with 55 per cent to metropolitan clubs—AJC and STC—17 per cent to provincial clubs such as Newcastle, and 28 per cent to country clubs. I conclude my remarks and commend both bills to the House.

The Hon. SHAOQUETT MOSELMANE [4.11 p.m.]: I speak to the Australian Jockey and Sydney Turf Clubs Merger Bill 2010 and the Totalizator Amendment Bill 2010. The Keneally Government recognises the importance of the racing industry to the State, in terms of its contribution to employment and the economy, and to the people of New South Wales. The New South Wales racing industry is a significant employer, providing 50,000 full-time and part-time jobs. The New South Wales racing industry also makes a significant contribution to the State's economy, which is estimated to be in the order of \$1 billion annually. The racing industry operates across the State, with a significant number of its 200 racecourses located outside the Sydney metropolitan area. Racing is community-based and all race clubs must have a non-proprietary basis if they are to be registered by the relevant controlling body.

Despite increasing competition from other entertainment opportunities, the popularity of New South Wales racing ranks favourably relative to other sports. The Australian Bureau of Statistics estimates that on the basis of persons who attended race meetings one or more times in a year, attendance at race meetings is second only to attendance at rugby league matches. In New South Wales, the 2009 Ernst and Young report, the L.E.K. report and the Merger Benefits Team statement all concluded that the merger of the Australian Jockey Club and the Sydney Turf Club was of benefit to the racing industry and the economy of New South Wales. While they had varying views about the quantum of the benefits, they unanimously agreed that a modern corporate governance structure, as proposed in the bill, will maximise the benefits to all segments of the New South Wales thoroughbred racing industry, the State's economy and the State's annual wagering tax receipts, which exceed \$160 million, exclusive of GST.

The benefits of a merger and the associated investment in racing infrastructure are clear. They include maintaining a significant economic contribution to the State's economy, ensuring that the showpiece of New South Wales thoroughbred racing retains its premier status nationally and internationally, providing for the future viability of the New South Wales thoroughbred racing industry, and providing best practice governance arrangements through an improved structure for the merged board. The inevitable conclusion to be drawn is that a failure to support these bills will damage the future viability of our racing industry and effectively abandon racing industry participants. I commend the bills to the House.

Reverend the Hon. Dr GORDON MOYES [4.14 p.m.]: On behalf of Family First I support the merger of the Australian Jockey Club and the Sydney Turf Club but I do not support the Totalizator Amendment Bill 2010, which introduces the installation of computer-simulated horse, harness and greyhound racing in retail TAB outlets. The object of the Australian Jockey and Sydney Turf Clubs Merger Bill 2010 is to facilitate the merger of the Australian Jockey Club and the Sydney Turf Club into a new racing club under the Corporations Act 2001. This will include the transfer of certain assets, rights and liabilities, and employees to the new racing club. It will include the power to grant new leases and other matters of a transitional nature. I have received a great deal of correspondence against the merger, but I cannot decide on the value of the opposing points of view. I have no interest in the merger of the two clubs any more than I have in the amalgamation of two brothels.

The object of the Totalizator Amendment Bill 2010 is to provide yet another form of betting activity by having computer-simulated horseracing, harness racing and greyhound racing events, such as Trackside, in retail TAB outlets. Schedule 1 [1] amends section 13 so that betting activity on computer-simulated horseracing, harness racing and greyhound racing events may be approved by the Minister. It is paramount that I voice the concerns of the community by saying that racing, gambling and betting are being made easier and more accessible. I have previously mentioned in the House the adverse social, economic and health costs of racing and gambling to the family. The major social consequences of problem gambling are closely related to social, physical and mental health disorders as a result of reduced household income and associated social disruption. Problem gambling can cause stress, anxiety, poverty, isolation, family breakdown, loss of employment, homelessness, domestic violence, criminal activity and even suicide.

New evidence shows that the gambling industry profits most from the poorest suburbs. Recent statistics from New South Wales underline the extent to which the gambling industry preys upon the poorest and most oppressed layers of the working class. The Australian Medical Association confirms problem gambling as a public health issue. The high cost to society comes from the vast variety of gambling options, the number of gambling venues, the expanding hours of gambling operation, industry advertising and Government reliance on gambling revenue. The Government's investment of \$150 million into the racing industry every year will promote the growth of problem gambling by facilitating access and increasing the appeal of gambling activities. In 2004 more than \$21 million was invested in 800 interactive wagering opportunities on new ways to bet in Victorian TAB outlets. The new terminals allow for fast and easy placement of bets.

Of all gambling expenditure reported in New South Wales in 2005-06, more than 18 per cent specifically related to racing gaming. The Productivity Commission recently reported that State governments rake in about \$5 billion a year—that is, \$5,000 million a year—from gambling taxes, with New South Wales and Victoria adding more than \$1.6 billion each to their coffers in 2008-09. Queensland raised \$930 million last year, while South Australia received almost \$400 million. The report revealed that Australians spend about \$19 billion a year on gambling and the cost to problem gamblers was between \$4.7 billion and \$8.4 billion a year. Now we have another form of gambling. According to the TAB, Trackside, the computer-simulated racing game, is said to be:

... hugely popular animated racing game that combines the excitement and best types of thoroughbred, harness and greyhound racing with the simplicity and payout characteristics of number games such as keno.

That sounds exciting and enticing! Apparently, the mooted product Trackside is a simulated racing game that is owned by Tabcorp, which has convinced the Government that if it installs the machines all over the State the Government will make \$12 million every year from the machines. Trackside is like a poker machine. The profit take-out is massive, which makes it impossible for players to win. But the real red flag for the racing industry is that the digitised horses are in direct competition for the punter's dollar, which is what sustains the industry. I do not have the slightest bit of sympathy for bookmakers, but I regard this as very much an anti-bookmaking move. I question the Government's motives in promoting and funding such a system.

The commercial gaming industry is already predatory. It spends \$573.5 million on advertising annually, pushing the illusion that anyone can get lucky. Gambling corporations deliberately feed off the desperation and sense of hopelessness of those who see no other way out of their current financial and personal situation. They are helped by the fact that restrictions on advertising in Australia are among the most lenient in the Western world. People are constantly bombarded with the message that they too can have the good life simply by placing a bet. It is only logical that those most affected by downsizing, declining wages, long-term job insecurity, rising electricity costs, household debt and so on are the most vulnerable to these messages.

With the introduction of Trackside and computerised simulated gaming, our State is looking at the Government being the supplier as well as the tax collector when the Government should be investing in helping gamblers who have problems and their families through counselling and professional services. In an environment in which governments have a direct stake in boosting gambling revenues, the vast transfer of wealth, which is what we are talking about, from the poorest sections of the population to professional gambling corporations, seems to continue unabated. If the Government plans to introduce a massive increase in gambling products without any assessment of the social impact I will not support any bill that so openly affects families at large.

Dr JOHN KAYE [4.21 p.m.]: I support the comments of Reverend the Hon. Dr Gordon Moyes on the Australian Jockey and Sydney Turf Clubs Merger Bill 2010 and the Totalizator Amendment Bill 2010. I cannot as eloquently express our concerns about what the rollout of yet another gaming machine will mean for the

people who are already addicted to gaming, and their families. In effect, this legislation takes the misery of people who are addicted to gambling, taxes it and passes that taxation over to prop up the racing industry. It seems very clear to us that this is a very, very regressive form of taxation. To reclassify Trackside from a gaming machine to a wagering machine—when it remains a gaming machine—to allow it to be inserted into more venues to capture more problem gamblers, to siphon off more money to bolster the profits of the TAB and also to prop up the flagging racing industry in New South Wales is unfair, unjust, inefficient and dangerous. For those reasons we do not support the rollout of Trackside and we do not support the Totalizator Amendment Bill. We are also quite lukewarm on the merger bill.

I was very attracted by the comment of Reverend the Hon. Dr Gordon Moyes that he cared as much for the merger of two racing clubs as for the merger of two brothels. I do not think I would have said that, but I think we are very attracted to the same degree of disaffection with the particular outcome of this legislation. As other speakers have said, the merger bill facilitates the merger of the Australian Jockey Club and the Sydney Turf Club into a single racing club, with the argument that this will facilitate investment in the racing facilities in Sydney and hence somehow or other rekindle public interest in a flagging racing industry.

The bill provides for the transfer of certain business undertakings, assets, rights and liabilities, and employees of the former clubs to the new merged club. Clause 7 of the merger bill provides an authorisation for the Minister, on behalf of the State, to enter into an arrangement with the relevant parties for the provision of financial assistance for the purposes of making improvements to Randwick racecourse and Rosehill Gardens. That raises the issue of whether it is the proper role of the State to provide financial assistance for the merger of two such clubs. I would be very interested to hear from the Parliamentary Secretary in reply as to whether a business case has been made out for State investment into racing clubs and whether there is some form of return, and if so how that return has been calculated and what is the value of that return. I can see the Parliamentary Secretary is doing those calculations as I speak—a tribute to her public school education.

[Interruption]

I note that Reverend the Hon. Dr Gordon Moyes also had a very fine public school education in a very fine State that in those days ran an exceptionally fine public education system. I turn now to the Totalizator Amendment Bill 2010, which is the bill about which we raise real concerns. The intent of the bill is to provide funding from Tabcorp to Racing NSW to the tune of \$150 million in return for the rights to all of the revenue from Trackside. In addition we understand that a separate government grant of \$24 million will specifically fund an upgrade to Rosehill racecourse. We must take a close look at Trackside because the legislation reclassifies it from a gaming product to a wagering product.

Trackside is a virtual racing game currently owned and operated by Tabcorp. It enables gamblers to place a TAB-style bet on the outcome of simulated thoroughbred, harness and greyhound races. It should be understood that these are not real races; they are the results of a computer random number generator—the computer equivalent of tossing a set of dice. Therefore, the outcome in no way reflects the skill of the gambler, as is supposed to happen in wagering; it is purely a gaming outcome, as occurs with poker machines. Some people have referred to Trackside as poker machines with a horseracing cartoon front-end.

To reclassify a simulated game as a wager is to do violence to reality—it is not a wager; it has none of the aspects of a wager other than a fairly crude front-end—because it is designed specifically to allow for more real gaming machines. Clearly what is happening—and it is one of the reasons the Australian Hotels Association so warmly welcomed this legislation—is that reclassifying these machines as wagering machines rather than as gaming machines enables pubs and clubs not only to have Trackside machines within the TAB franchise on their premises but also to have more gaming machines: it takes the pressure off their cap. Every Trackside machine that is reclassified from a gaming machine to a wagering machine means that there can be another poker machine. In effect, reclassifying these machines will result in more gaming machines in licensed venues. Reclassification is providing more opportunities for individuals who are already addicted to gaming and racing, who are already destroying their lives through the use of gaming machines, to inflict more damage on themselves and on other people purely to profit the racing industry and the owners of Tabcorp. There is no public benefit to reclassifying these machines.

It must be understood that Trackside has a draw frequency of approximately every three minutes. One of the key features that have been identified by the National Council on Problem Gambling is that while different types of gambling have different characteristics that exacerbate gaming problems, one of the key risk factors is the speed of play. The faster a gambling opportunity is repeated the more people will become addicted to it and the easier it is to develop addictive behaviours.

Trackside has all the addictive characteristics of the racecourse, but it is faster. Its speed will encourage people who already have incipient gaming addictions to become addicted to what is effectively yet another gaming product. It is not like attending a racecourse, where there is time between the running of each race; on Trackside the races are run every three minutes. As a result, more people will join the ranks of the 22,000 who are already addicted to gambling and who have associated destructive behaviours. It is unfair to them and to their families. Trackside has a profit take-out of about 80 per cent. That means that anyone who uses this product is effectively paying 80 per cent of their wager as tax. Repeated gambling on Trackside will result in losses. It is simply a random luck machine with the odds biased against the user and in favour of Tabcorp and the hotels, clubs and pubs that install the machines and the racing industry. Players do not exercise judgement and do not rely on prior knowledge.

How on earth can the Government refer to this is a wagering product? It is simply a convenient way to increase the number of gaming machines in this State and to increase profits for the operators at the expense of some of the most vulnerable people in New South Wales. It will provide more opportunities to ensnare problem gamblers and for people to ruin their lives and the lives of their families. It will create that opportunity without clubs and pubs needing to sacrifice a single poker machine licence. This is a backdoor trick being used by the Keneally Government to sidestep its cap on the number of gaming machines in this State. If people ever believed that this Government and those who support this bill were committed to controlling the problems caused by gaming machines, this legislation disproves it.

The Hon. Duncan Gay: I will remember those words in about half an hour.

Dr JOHN KAYE: The Leader of The Nationals is more than welcome to exercise his brain cells by remembering whatever I say, because I stand by it.

The Hon. Duncan Gay: You will be saying something different.

Dr JOHN KAYE: No, I will not. The Leader of The Nationals is prejudging what I will say. He either has great prescience or he is being silly. In half an hour he will be proved to be silly.

DEPUTY-PRESIDENT (The Hon. Christine Robertson): Order! Members will return to the leave of the bill.

Dr JOHN KAYE: The Minister for Gaming and Racing, Mr Kevin Greene, is hoping that no-one will notice what he is slipping through with this legislation. He is hoping that he and the industry will get away with it. He is hoping that no-one will notice that the Government is imposing a massive tax on people who have some of the most addictive behaviours in our society.

Tabcorp is to be granted a tax break worth \$120 million on revenue from Trackside. As if it were not bad enough that the people of New South Wales are contributing \$24 million to Rosehill racecourse, another \$120 million in forgone tax revenue is being handed as a gift to Tabcorp. That money should be spent helping the people who have addictive behaviours to rid themselves of that burden and to prevent the damage that will be done by these machines. Tabcorp is benefiting twice. How often have we heard that statement? It has an arrangement to introduce Trackside and it is also getting this tax break. It is not surprising, therefore, that the Australian Hotels Association and ClubsNSW both support the rollout of this product. They and their members will get a cut of the action as a result of this appalling backdoor increase in the number of gaming machines in this State.

The Greens cannot support this legislation. Like so much else that happens in the gaming arena, this legislation will impose a tax on people who can least afford to pay it and it will cause a drain on the household budget if a family member is addicted to gambling. It is the wrong thing to do. If the racing industry needs financial support, it should put up a business case to attract revenue that does not come from some of the most disadvantaged people in New South Wales.

The Hon. SOPHIE COTSIS [4.35 p.m.]: I support the Australian Jockey and Sydney Turf Club Merger Bill and the Totalizator Amendment Bill, which will facilitate the merger of the Australian Jockey Club and the Sydney Turf Club. The proposed reforms and accompanying investment in racing infrastructure and spectator facilities are essential to the future viability of the New South Wales thoroughbred racing industry. The racing industry provides 50,000 full-time, part-time and indirect jobs throughout this State and its annual

contribution to the State's economy is about \$1 billion. Racing at Royal Randwick Racecourse and Rosehill Gardens Racecourse represents the pinnacle of New South Wales racing, both in terms of prize money and public enjoyment. It has a reputation for excellence both nationally and internationally.

A strong Sydney metropolitan racing sector has benefits for the racing industry and the State because it promotes the future viability of all New South Wales racing. Horse owners aspire to winning a metropolitan race at headquarters at Randwick, and the winner of an AJC Derby or a Golden Slipper is much prized. The graduation of racing from country to provincial to metropolitan courses ensures that horses at all levels of ability are catered for, and the system works best if the top level is operating at its optimum.

It is anticipated that this merger will deliver about \$5 million in savings each year, which could be used to keep up with prize money and infrastructure needs in the face of challenges to the industry funding base. Implementing best practice governance structures and improving racing industry infrastructure provides for State wagering taxes of approximately \$160 million a year and for TAB distribution of approximately \$230 million to sustain the industry. Without this restructuring and infrastructure assistance the tax and revenue outcomes will likely be adversely affected, as would racing industry employment levels across the State. The most vulnerable racing industry employment opportunities are in regional New South Wales. Not supporting these bills and effectively doing nothing will result in this State's racing industry falling behind the industry in other States. I commend the bills to the House.

Reverend the Hon. FRED NILE [4.38 p.m.]: The Australian Jockey and Sydney Turf Clubs Merger Bill and the Totalizator Amendment Bill provide for the merger of the Australian Jockey Club Limited and the Sydney Turf Club and for the conduct of computer-simulated horse, harness and greyhound races in retail TAB outlets. The main bill provides for the registration of the Australian Jockey Club and the Sydney Turf Club as a new company pursuant to the Corporations Act. The Australian Jockey and Sydney Turf Clubs Merger Bill will assist in that process by providing for the orderly transfer of the business undertakings of the former clubs to the new club. The bill provides for the establishment of the nine-member board, the appointment of the directors and so on.

My concern relates to the Totalizator Amendment Bill. Australians are very keen gamblers; they will bet on two flies crawling up a wall. But as a result of this legislation we will now not even have a real fly to bet on! The bill provides for the Minister to give approval for the conduct of computer-simulated horse, harness and greyhound racing events by a licensee under the Totalizator Act 1997 as a betting activity. It also provides a blanket approval for exclusive use of the multi-terminal gaming machines known as Trackside until the end of 2097. That will certainly lock in all future governments. If the Coalition comes to government next year, it will be locked into this agreement, which will apply till 2097, almost to the year 2100.

The approval for this purpose is intended only for use in the TAB retail outlets, PubTAB and ClubTAB. Given that we have so many gambling opportunities already in New South Wales, I should not have thought it necessary that we introduce computer-simulated horse, harness and greyhound racing events as well. I put on record my opposition to that proposition.

The Hon. IAN WEST [4.40 p.m.]: I support the Australian Jockey and Sydney Turf Clubs Merger Bill 2010 and the Totalizator Amendment Bill 2010, the main purpose of which is to facilitate the merger of the Australian Jockey Club and the Sydney Turf Club into a new racing club incorporated under the Corporations Act and to amend the Totalizator Act 1997 so that the betting activity in respect of computer-simulated horse racing, harness racing and greyhound racing events may be approved under the Act. A strong Sydney racing sector is the jewel in the crown of New South Wales racing. Its economic strength has a flow-on effect to country and provincial racing and to the estimated 50,000-plus racing jobs—full-time and part-time—at stake in this vital industry in New South Wales and Australia.

The first objective of the Australian Jockey and Sydney Turf Clubs Merger Bill 2010 is to facilitate the merger of the Australian Jockey Club and the Sydney Turf Club into a new racing club incorporated under the Corporations Act. The Australian Jockey Club and the Sydney Turf Club have of their own volition taken the first-ever step to register a company for the particular purpose of ensuring that the two bodies merge. The bill assists that process by providing for the orderly transfer of the business undertakings and certain assets, rights and liabilities, and employees of the former clubs, into the new merged club. That will be a lengthy and difficult task, and I wish both parties well in their deliberations to bring this about. I am sure they will succeed. It is absolutely vital that they do so for the future employment of the 50,000-plus people employed in the racing industry.

The merger involves some complexities that have required the expert advice of the Crown Solicitor's Office. The bill addresses these complex matters in some detail. Pursuant to clauses 8 and 9 of the principal bill the Minister will make an order to be published in the *Government Gazette* to declare the company to be a merged racing club. The Minister's order may declare a company to be the merged racing club and also specify the merger finalisation date, an important aspect of this detailed process. That may occur only if the company is registered in this State pursuant to the Corporations Act. A copy of the constitution of the company has been provided to the Minister, and I am advised that the Minister is satisfied that the constitution of the company includes certain mandatory corporate governance provisions.

Subclause (6) of clause 8 provides that the Minister's order, if it is made in accordance with the requirements of the provision, cannot be challenged. This provision will ensure that once the process is undertaken, the racing industry is provided protection from a costly and self-destructive challenge to the merger by an element not acting in the overall best interests of the racing industry. One would hope and trust that the chances of that occurring in the industry would be extremely unlikely.

The mandatory corporate governance provisions are addressed in detail. In summary, the prudent effect of the provisions is that there will be no merger unless the Australian Jockey Club and the Sydney Turf Club have registered a new company for that purpose, that a new constitution is drawn up in accordance with the mandatory governance provisions required by the bill, and that a new board is put in place for the new merged club. Subclause (12) of clause 10 enables the appointments process for foundation board members to commence before the merger. This will enable a full board for the new merged club to be in place as soon as possible.

Separately, clause 7 of the bill provides an authorisation for the Minister, on behalf of the State of New South Wales, to enter into an arrangement with the relevant parties for the provision of financial assistance for the purpose of making improvements to Randwick racecourse and Rosehill Gardens. Those who go to the races on a regular basis look forward to those improvements. Randwick racecourse and Rosehill Gardens and their facilities are in fantastic shape and those responsible for their maintenance should be congratulated, but I understand that those facilities will be substantially improved, and no doubt the patrons will appreciate those improvements.

The bill proposes that these arrangements be specifically authorised for the purposes of the Trade Practices Act and the Competition Code of New South Wales. The relevant parties for the purpose of this provision are Racing NSW, Tabcorp Holdings Ltd and the merged racing club. The provisions of the bill will give comfort to many of the concerns of the parties involved in the proposal, which have been reduced to the form of agreement and are recognised by the proposed legislation. Any further concerns relating, for example, to the detail of the management of the merged racing clubs race program across the racecourses under its control, will be appropriately dealt with by the new board in accordance with its responsibility to manage the affairs of the new company under the Corporations Act.

It has been acknowledged that a merger agreement has been entered into by the Australian Jockey Club and the Sydney Turf Club to address a number of fundamental issues of concern. I should think that it would not be possible to find anything more fundamental than prize money. To anyone who likes to have a punt, the question of prize money is pretty important, and the bills deal with this aspect in great detail. The bills also deal with funding arrangements, and I commend them to the House.

The Hon. PENNY SHARPE (Parliamentary Secretary) [4.50 p.m.], in reply: I thank honourable members for their contributions to the debate. The bills are the result of many months of work involving the New South Wales racing industry constructing a vision for its future and building the trust necessary to put that vision into place. The bills bring certainty for all stakeholders. Bipartisan support of the bills acknowledges the commitment of racing administrators, who have made a significant individual commitment, and it also underpins the corporate and public financial investment in the proposal.

The main purpose of the bills is to facilitate the merger of the Australian Jockey Club and the Sydney Turf Club into a new racing club incorporated under the Corporations Act and to amend the Totalizator Act 1997 so that betting activities in respect of computer-simulated horseracing, harness racing and greyhound racing events may be approved under that Act. Dr John Kaye and Reverend the Hon. Dr Gordon Moyes raised a couple of issues relating to Trackside, which is a computer-simulated racing game. It is not new. It has been reclassified from a multi-terminal gaming machine to a betting activity. It has been available in New South Wales since the 1990s as a multi-terminal gaming machine and has also been available in Victoria for many years.

Prior to the introduction of the game into TAB outlets, Tabcorp will be required to obtain ministerial approval for appropriate rules of betting. Tabcorp will also need to satisfy the New South Wales Office of Liquor, Gaming and Racing that the regulatory arrangements, such as those currently in place in Victoria, will provide appropriate controls over the conduct of the Trackside game. These controls will ensure that appropriate responsible gaming policies and practices are in place, that the correct amount of Trackside revenues are returned to persons who might bet on the game and that government and racing industry revenues are correct. I again thank members for their contributions to this debate and I commend the bills to the House.

DEPUTY-PRESIDENT (The Hon. Christine Robertson): Order! In accordance with the request from Reverend the Hon. Dr Gordon Moyes, I propose to put questions on the bills separately.

Question—That the Australian Jockey and Sydney Turf Clubs Merger Bill 2010 be now read a second time—put and resolved in the affirmative.

Motion agreed to.

Bill read a second time.

Question—That the Totalizator Amendment Bill 2010 be now read a second time—put and resolved in the affirmative.

Motion agreed to.

Bill read a second time.

Leave granted to proceed to the third reading of the bills forthwith.

Third Reading

Motion by the Hon. Penny Sharpe agreed to:

That these bills be now read a third time.

Bills read a third time and returned to the Legislative Assembly without amendment.

SOLAR BONUS SCHEME

Production of Documents: Return to Order

The Clerk tabled, pursuant to resolution of 20 October 2010, documents relating to an order for papers regarding the New South Wales Solar Bonus Scheme received this day from the Director General of the Department of Premier and Cabinet, together with an indexed list of documents.

Production of Documents: Claim of Privilege

The Clerk tabled a return identifying those of the documents that are claimed to be privileged and should not be tabled or made public. The Clerk advised that pursuant to standing orders the documents are available for inspection by members of the Legislative Council only.

COAL SEAM GAS EXPLORATION

Production of Documents: Return to Order

The Clerk tabled, pursuant to resolution of 21 October 2010, documents relating to an order for papers regarding coal seam gas exploration received this day from the Director General of the Department of Premier and Cabinet, together with an indexed list of documents.

Production of Documents: Claim of Privilege

The Clerk tabled a return identifying those of the documents that are claimed to be privileged and should not be tabled or made public. The Clerk advised that pursuant to standing orders the documents are available for inspection by members of the Legislative Council only.

ELECTION FUNDING AND DISCLOSURES AMENDMENT BILL 2010

Bill received from the Legislative Assembly, and read a first time and ordered to be printed on motion by the Hon. Michael Veitch, on behalf of the Hon. John Hatzistergos.

Motion by the Hon. Michael Veitch agreed to:

That standing orders be suspended to allow the passing of the bill through all its remaining stages during the present or any one sitting of the House.

Second Reading

The Hon. MICHAEL VEITCH (Parliamentary Secretary) [4.58 p.m.], on behalf of the Hon. John Hatzistergos: I move:

That this bill be now read a second time.

The Government is pleased to introduce a bill that implements groundbreaking reforms to political donations including bans, caps and other restrictions on political donations, and increased public funding of election campaigns. This is yet another area in relation to which New South Wales is leading the way. For many years New South Wales has been pressing the Commonwealth to lead national reforms relating to political donations. To be fully effective, there is a clear need for reforms at all levels of government across Australia. In 2009 the Government decided that New South Wales should take practical action to start a national reform process. We announced that New South Wales would proceed with reform of election funding laws to provide certainty and confidence in the electorate of the impartiality of government decision-making and of the transparency of process in government.

Importantly, these reforms are also directed at reducing the advantages of money in dominating political debate. They provide for a more level playing field for candidates seeking election, as well as for third parties who wish to participate in political debate. These reforms are about putting a limit on the political "arms race", under which those with the most money have the loudest voice and can simply drown out the voices of all others.

The reforms will help to give voters a better opportunity to be fully and fairly informed of the policies of all political parties, candidates and interested third parties. As a first step, we introduced legislation banning donations by developers. Those reforms prohibited political donations by professional corporate property developers and their close associates.

At around the same time we announced that the 2011 State election would be conducted under a public funding model, rather than a system in which the cost of election campaigns is significantly met by political donations to parties. To that end, the Government made a reference to the parliamentary Joint Standing Committee on Electoral Matters for it to "inquire into a public funding model for political parties and candidates to apply at the State and local government levels". On 26 March 2010 the committee published its report, which makes numerous recommendations that propose fundamental reform in the area of political donations. The report recommended that the Government reform New South Wales election funding laws before the next State election, independent of any action taken by the Commonwealth. I am pleased to say that there was genuine bilateral cooperation during this committee inquiry, and that there was broad agreement from all parties that something needed to be done to take action in this area.

In drafting this bill the Government has been acutely aware that any New South Wales law that interferes with Commonwealth elections, or burdens the implied freedom of communication about Commonwealth political matters, may be subject to constitutional challenge. Any New South Wales reforms must take into account the elements of the test set down by the High Court in the Lange case—that is, the reforms must be reasonably and appropriately adapted to serving a legitimate end in a manner that is compatible with the system of representative and responsible government. The Government is satisfied that the right balance has been struck in this bill. However, for comprehensive and effective regulation of this area the Commonwealth must introduce similar laws to regulate Federal donations and campaign expenditure. Without Commonwealth action in this area, our laws may fall prey to unscrupulous people who use the lack of Commonwealth regulation to attempt to circumvent the spirit of the law. So now is the time for the Commonwealth to follow New South Wales' lead in the interests of achieving a more transparent democratic system of government in this country.

In the other place a number of Government amendments were made to the original bill to deal with certain minor drafting matters that were brought to the Government's attention after the introduction of the bill. The effect of these amendments includes ensuring that parties, members and candidates must disclose donations made as well as donations received; defining a "bequest" as something that can be paid into the State campaign account; correcting drafting oversights; and clarifying the intention of the bill. I seek leave to incorporate the remainder of my second reading speech in *Hansard*.

Leave granted.

I now turn to the details of the bill.

Donation caps

Donations to political parties and groups will be capped at \$5,000 per annum.

Donations to elected members, candidates and third parties will be capped at \$2,000 a year.

Elected members and candidates endorsed by the same party or group would be considered a single entity for the purposes of the donation cap.

Donors would be prohibited from contributing to more than three registered third parties, each up to a maximum of \$2,000 in a financial year where those donations are for the purpose of the third parties incurring electoral expenditure.

Limiting the number of donations and recipients in this area is essential to the integrity of the scheme.

Without it, there is a serious risk that third party entities will be established for the primary purpose of harvesting donations and avoiding expenditure caps.

The limits will ensure that people retain the freedom to support the participation of non-party entities in political communication activities without creating a significant avoidance problem.

Of course, if a person contributes to more than three non-government organisations in a financial year to support their political campaigns without understanding that such conduct is unlawful, there will be a defence available.

The new requirements of the bill also apply to corporations that are related to each other under the definition in the Corporations Act as if they were a single corporation.

This will ensure that a single corporate group cannot avoid the caps by donating through different companies or by setting up new shelf companies for that purpose.

Membership and Affiliation Fees

Party membership and party affiliation fees will be excluded from the caps on political donations.

It is no surprise that there is a level of public concern about this matter and the Government appreciates that such a source of non-public funding could be seen as unfair—both by smaller parties and by parties with different organisational structures.

To be fair, however, requires recognition that political parties built on a long tradition of supporting workers' involvement in our political system must be able to meet their administrative costs.

The bill proposes, therefore, that all registered political parties will be prohibited from using membership and affiliation fees to incur electoral expenditure.

Such fees will still, however, be able to be used to meet party administration costs.

Express inclusions

Any transfer of funds from an interstate or federal branch of a political party would constitute a political donation that is subject to the donation cap, and it will be required to be disclosed.

Under the bill, any uncharged interest on a loan would also constitute a political donation that is subject to the donation cap, and required to be disclosed.

Electoral Expenditure cap

Caps for Candidates

Candidates endorsed by a party in a Legislative Assembly seat would have their electoral expenditure capped at \$100,000.

The cap for independent candidates for the LA would be \$150,000, which recognises the fact that an independent will not get the benefit of a general state-wide campaign run by registered parties.

At a by-election, all candidates would be able to spend up to \$200,000. In such cases, parties will not be subject to an express cap on their electoral expenditure but if they do incur such costs, those will be attributed towards the candidate's expenditure.

This approach ensures that there is a disincentive to parties spending unduly large amounts on by-elections—with the consequent impact on the public purse.

Any amount not spent by a candidate in their electorate could not be transferred to increase the expenditure limit for the party endorsing the candidate or another candidate endorsed by the same party.

Parties

The bill imposes an expenditure cap for parties endorsing candidates in the Assembly of \$100,000 multiplied by the number of seats being contested by candidates endorsed by that party.

So if a party were to contest all 93 seats, the party expenditure cap would be \$9.3 million.

Parties and groups endorsing candidates in the Legislative Council but 10 or fewer candidates in the Legislative Assembly will be subject to an expenditure cap of \$1,050,000.

The bill will ensure, however, that parties may not spend more than \$50,000 from within the applicable overall cap substantially for the purposes of the election in a particular electorate.

This will ensure that there is no incentive for parties to run candidates in additional seats simply in order to increase their access to public funding.

Third parties

Third parties who spend over \$2,000 in electoral expenditure will be required to register as a third party campaigner and will be subject to a statewide expenditure cap of \$1,050,000.

If a third party registers on or after 1 January in the year of election, that cap will be reduced to \$525,000.

Third parties may not spend more than \$20,000 from within the applicable cap substantially for the purposes of the election in a particular electorate.

This allows a third party reasonable access to funds to campaign in an electorate on specific local issues, without allowing that third party to compromise the integrity of the election outcome by spending more than \$1 million in one electorate in relation to an electorate-specific issue.

Definition of "Electoral Expenditure"

It is proposed that only "communication costs" will be subject to the expenditure caps, including advertising, printing and distribution costs, telecommunications and Internet costs, associated production costs, office rent, and staff wages and salaries.

The following items will not be subject to the expenditure caps: travel, accommodation, research, auditing, office rent (in the case of the campaign headquarters of a political party), and the value of volunteer labour.

Of course, electorate offices are not included because it is not permissible for such office costs to be used to fund campaigns of incumbent candidates.

Management of donations and expenditure

Parties and registered third parties would be required to maintain a separate account for State campaigns.

Parties would not be permitted to make payments for electoral expenditure unless the payment was made from the separate State campaign account.

As already noted, parties would not be permitted to use any funds received as membership fees or affiliation fees to pay for electoral communication expenditure.

Parties would also be prohibited from donating to unendorsed candidates and conversely, unendorsed candidates would be prohibited from receiving donations from parties.

In accordance with Recommendation 9 of the Committee report, and to limit the risk of constitutional invalidity, it is proposed that registered political parties and groups be required to maintain separate accounts with a bank, credit union, building society or other entity prescribed by the regulations for the purposes of State campaigns, other campaigns (such as federal campaigns), and administration costs respectively.

This will help to ensure that the proposed caps on political donations do not interfere with fundraising and expenditure for federal elections, or impact on the flow of funds from New South Wales to the Commonwealth for the purposes of incurring Commonwealth electoral expenditure.

Public Funding of Election Expenditure

Caps on donations require a significant increase in public funding to reduce the risk of such caps being invalid under the Commonwealth Constitution.

Parties, groups and candidates must have sufficient resources to contest elections and engage in debate about political matters, or there is a risk that the High Court may find that the reforms invalidly limit the implied freedom of political communication.

The bill therefore adopts the Committee's recommendation to increase the amount of public funding available to political parties, groups and candidates in order to partly compensate for the loss in revenue arising from the proposed caps on political donations.

Eligibility

To be eligible for public funding, candidates contesting an Assembly seat will need to receive at least 4 per cent of first preference votes or be elected.

Ungrouped candidates in a Legislative Council election will need to receive at least 4 per cent of first preference votes or be elected.

To be eligible for public funding, parties will need to receive an aggregate of at least 4 per cent of first preference votes in those Assembly electorates in which they endorse candidates.

Parties or groups not endorsing Assembly candidates will need to receive an aggregate of at least 4 per cent of first preference votes in a Legislative Council election or have a member elected to the Council.

For those who qualify for public funding, reimbursement would only be paid for actual electoral expenditure, and further reimbursement would be in accordance with a diminishing sliding scale, so that public funding of electoral expenditure reduces as a candidate or party spends closer to their electoral expenditure cap.

This will act as a disincentive to spend to the cap and will reduce the overall costs for the taxpayers of the new public funding model.

Administration Fund

In accordance with recommendation 32 of the Committee, the bill establishes a fund to provide for the funding of parties' administration costs.

Again, this funding is necessary in light of the fact that donations have been capped. It is also fair and reasonable.

Parties with endorsed elected members will be eligible to obtain funding from the Administration Fund, so long as the party satisfies the annual continued registration requirements.

Elected members who are not endorsed by a party would also be eligible for payments from the Administration Fund.

Payments from the Administration Fund will be calculated at \$80,000 per MLA and MLC up to a maximum of \$2 million.

Those eligible to receive payments would be reimbursed only for actual expenditure up to their maximum entitlement.

Policy Development Fund

In response to concerns that capping donations may have an adverse impact on the development of new parties, the bill also establishes the "Policy Development Fund".

A party would be eligible for Policy Development funding only if it was not eligible for Administration funding.

The bill provides that a new party would be eligible for Policy Development funding of at least \$5,000 for the first eight years.

Revised disclosure rules

To maintain transparency disclosure requirements will be maintained.

The current disclosure threshold of \$1,000 is retained.

In light of the proposed caps on political donations and expenditure, and to improve the EFA's ability to administer the Act, political donations and expenditure will have to be disclosed every 12 months as opposed to every 6 months, ensuring that the due date for disclosures corresponds with the end of the financial year.

The bill also includes a requirement that political parties that receive public funding under the new regime must furnish audited financial Statements for their separate State, federal and administration accounts (where applicable) on an annual basis.

Powers of the EFA

In light of the proposed reforms to political donations and expenditure, and the Electoral Commissioner's evidence to the Committee, the bill also provides additional powers to the EFA to ensure that the Authority is in a position to enforce the new regulatory scheme.

The EFA will have new injunction powers, strong new inspection and enforcement powers and new powers to enter into compliance agreements.

These agreements will be a tool for maximising compliance with disclosure obligations without resorting to court action.

Importantly, the Authority will also have the power to withhold public funding payable to a political party, group or candidate that has exceeded the applicable expenditure cap or fails to comply with its annual disclosure obligations.

Conclusion

This bill is only the first step but it is a big one.

In order for there to be comprehensive, effective regulation of this area, the Commonwealth, and other Australian jurisdictions need to progress similar laws.

There are also other issues to address within NSW, such as how Local Government elections should be regulated and funded.

The NSW Government is proud however, that we are the first to implement these innovative and necessary laws.

Our State has one of the most stable democratic systems of Government anywhere in the world.

Our society cherishes this and our commitment to democracy and transparency as a principle is unchanging.

But the way we make our democratic process work has changed to meet changing times.

NSW has seen many evolutions; responding to changes in human rights, technology or community expectations.

These changes have always been robustly debated, and carefully scrutinised by our communities, who rightly seek to protect that unwavering principle of democracy in government.

In recent years changes in technology, changes in community expectations about openness of information, allow us to once again review our democratic process and ensure that it is the best, most open and accountable system it can be.

In response to these changes, we have proposed a range of reforms to make sure that the way our democracy functions meets the needs and aspirations of modern NSW communities.

This is about letting the communities of New South Wales know, and be confident that, the principle of democratic Government, with decisions made on merit, made openly and in the public interest, remains at the centre of our State.

I commend the bill to the House.

The Hon. DON HARWIN [5.03 p.m.]: Over many years public confidence in the administration of our State has been undermined by the perception that vested interests are using money, given as donations, to buy influence in New South Wales. After years of debate and several committee inquiries, we should be discussing a bill that comprehensively reforms election funding and restores public faith in the integrity of our political system. Frustratingly, however, we are not. Instead, we have before us a half-hearted bill that neglects critical areas of overdue reform and cynically skews the playing field in favour of the current Government.

The Liberal Party and The Nationals have championed comprehensive campaign finance reform for New South Wales throughout the term of this Parliament. Barry O'Farrell has been a strident advocate for a rigorous, transparent and balanced approach to election funding since the moment he became Leader of the Opposition. In contrast, a succession of Labor Premiers have dragged their feet for the past three years, trying to delay reform or limit its scope. Now, at the eleventh hour, the Government has brought in a deeply flawed proposal that falls well short of the standards for which this side of politics has been fighting. Our policy has been clear from the very beginning of this debate. In our 2008 submission to the Legislative Council select committee—the establishment of which was moved by me on behalf of the Opposition and was passed by this House—the Liberal Party and The Nationals made five key recommendations, concerning national reform of political donations; limits on campaign expenditure by parties, candidates and third parties; review and approval powers for the Auditor-General over government advertising; reform of the electorate mail-out allowance; and donation disclosure reform.

Earlier this year, in our submission to the Joint Standing Committee on Electoral Matters inquiry, the Liberal Party and The Nationals again pressed for comprehensive reform. We recommended restricting donations to individuals and placing caps on election spending, with an independent arbiter setting the level of donation and expenditure caps. We called for limitations and transparency with regard to third party spending and government advertising as part of the reforms, as well as a review and adjustment of the electorate mail-out allowance scheme that operates for members of the Legislative Assembly. In between these submissions, the Coalition also released a policy document in which our position was clearly stated for the public record.

The Labor Government, in contrast, has been all over the place on the issue of campaign finance reform. For months it shamefully pleaded that meaningful action could not be taken independent of Commonwealth legislation, and it has made two piecemeal attempts at clearing the air of the donations-for-decisions stench that has become synonymous with New South Wales Labor. And just as clarity has been lacking from this broken Labor Government, so has transparency. The final report of the Joint Standing Committee on

Electoral Matters recommended that an exposure draft of the bill be released for public consultation and comment. As is typical of Labor, despite loud rhetoric about consultation there has been no exposure draft of the Election Funding and Disclosures Amendment Bill 2010. The Premier's press release talked about the need for "broad support" and vowed that consideration of this bill would be "an inclusive exercise". But, as Imre Salusinszky notes in last weekend's *Australian*, "that was always a fiction".

The office of the Leader of the Opposition has sought a ministerial briefing on the bill, but the Premier's office has not returned numerous calls. Communication from the Premier's office to the Opposition regarding the bill has been non-existent—in stark contrast to the closed-door deals that have been done with crossbench members of the Legislative Council. And now we are subject to a sudden last-minute rush to quickly force this flawed bill through the Parliament. The bill was passed by the other place only minutes ago. Members of this House sat here listening to a filibuster, with Government member after Government member speaking on the previous legislation, simply because this bill arrived from Parliamentary Counsel—with the other place's amendments incorporated in it—literally only minutes before it was presented to the Chamber. It is an absolute sham. The people of New South Wales have learned that there is a great deal of difference between what Labor says and what it actually does. And the limited, flawed reforms provided in this bill are no exception.

The Premier claims that her reforms will end the so-called "arms race" in campaign spending—that appears in her agreement in principle speech delivered in the other place. That is simply not true. Under the provisions of this legislation, the New South Wales Labor Party will be entitled to spend \$18.6 million in the 2011 State election. That is more than the \$16.7 million it spent on declared electoral expenditure at the last election, in 2007. Despite the spin and talk from the Premier, more money will be spent during the upcoming election in a shorter, regulated three-month period than in the history of our State. That is a long way from what former Premier Nathan Rees claimed would be the outcome when he sent the reference to the Joint Standing Committee on Electoral Matters—in fact, it is unrecognisable.

There is no end to the arms race because the expenditure caps in the Premier's proposed scheme have been set by Labor politicians in this Government rather than by an independent authority. The Leader of the Opposition has repeatedly advocated that the Auditor-General determine the appropriate level at which campaign spending ought to be capped. For our State's election funding system to be completely transparent and beyond the influence of politics, it is vital that politicians are not setting the rules by which they are bound and upon which their very existence depends. To restore confidence in the integrity of our political system, such decisions must be made at arm's length from those to whom they will apply—the community expects nothing less.

Missing from this bill, and from the Premier's approach, is the issue of government advertising. The effectiveness of caps on campaign expenditure by political parties and candidates is severely undermined without complementary legislation to stop the misuse of government advertising budgets. Members will see from the *Notice Paper* that I gave notice of the introduction of such a bill to ensure that, as far as possible, public money was not expended on government publicity for a partisan political purpose by empowering the Auditor-General to scrutinise government publicity and report on its capacity to be used for that purpose. The Leader of the Opposition introduced a similar bill in the other place but regrettably the Government rejected the opportunity to implement such reform and bring transparency and accountability to our system. It remains missing from the Government's flawed reform agenda.

The bill contains nothing about appropriate, consequential changes to the electorate mail-out account. The Parliamentary Remuneration Tribunal explicitly prohibits the use of the electorate mail-out account entitlement for the purpose of "direct electioneering or a political campaigning nature". However, an incumbent member of the Legislative Assembly can spend in excess of \$60,000 in the final year of a parliamentary term communicating with constituents. Placing no restrictions on an incumbent's ability to spend their entire electorate mail-out account entitlement in the regulated period, while their opponents are limited to spending \$150,000 on their entire campaign, is a subversion of the spirit of capped expenditure arrangements. Above all, this bill is about cheating: Labor wants to cheat its way out of immense electoral trouble. And, sadly, the Greens are complicit in this disgraceful fix. This bill gives unions the green light to run a \$22 million campaign before the upcoming State election on behalf of the Labor Party with which they are affiliated. That is \$22 million—or more like \$23 million—above and beyond the \$18.6 million that the Labor Party is entitled to spend under the expenditure cap established in this legislation.

Reverend the Hon. Fred Nile: Over a million dollars each.

The Hon. DON HARWIN: Exactly. It makes a complete and utter mockery of this bill. As former New South Wales Minister Rodney Cavalier canvasses in his new book entitled *Power Crisis*—which I thoroughly recommend—genuine reform in our State is hamstrung by the very structure of New South Wales Labor, which concentrates power in the hands of a few affiliated trade union secretaries. Labor Premiers find themselves caught between the wishes of the union bosses and the best interests of ordinary electors. In numerous jurisdictions the discussion about campaign finance reform and the public funding of elections has broken down over the issue of union affiliation fees. It appears unlikely that the hurdle can be overcome in New South Wales and that comprehensive reform will be introduced here, while this party is in power and while Labor remains beholden to affiliated union secretaries. With union delegates constituting 50 per cent of Labor conference attendees, control of the conference floor is in the hands of the unions. As Rodney Cavalier explains:

... control of the floor translates into control of the conference agenda, control of proceedings and control of the atmospherics. The group which controls conference will win the positions elected by conference, most importantly the officers of the party, the ruling executive and the delegates to national conference. Control at conference delivers control of the party between conferences.

And control of Labor by the unions has increasingly meant control by a professional political clique disconnected from the community. More than 80 per cent of Australian workers do not belong to a union, and more than 90 per cent do not belong to unions affiliated with the Australian Labor Party. As Rodney Cavalier explains:

Workers don't belong because they don't want to belong. Contested union ballots, like attendances at union meeting, reveal how very few members take the slightest interest in the affairs of their unions. The proportion of members of affiliated unions who belong to the ALP is fewer than 0.5 per cent. Belonging to the ALP is not a part of the life of a modern Australian worker.

Declining union membership has enabled a handful of union bosses to wield enormous power over New South Wales Labor. Cavalier explains that "Taking over these moribund institutions provided value for one reason and one reason only ... with them came a controlling parcel of shares in the ALP that delivered the keys to the kingdom of one side of Australian politics." It is indeed a select group.

The fate of New South Wales Labor and its policies is increasingly decided by what Rodney Cavalier terms "a gathering sufficiently intimate that all could be seated around the one circular table" at the Golden Century Chinese restaurant in Sussex Street. The power of the union bosses and their vested interest in being able to control New South Wales Labor has been repeatedly on display, year after year, under this Government. It was most notable in the debate on electricity privatisation but was also clearly evident in Premier Keneally's sham donation reforms. This bill enables those union bosses, one of whom is Mr Bernie Riordan, who is the head of the Electrical Trades Union and also happens to be the State President of the Australian Labor Party.

Each union boss can run a \$1.05 million proxy campaign to try to secure the re-election of this incompetent Labor Government. It is no accident that the announcement of this bill came hot on the heels of the craven capitulation by the Premier to the trade unions' demands over the national occupational health and safety agreement. Even though her Government had signed up to the agreement—a reform process supported by every other State—the Premier made a stunning reversal and turned her back on Prime Minister Gillard in order to placate the unions. She has left herself open to the accusation that she has tried to secure millions of dollars in campaign expenditure. She hopes that this money will provide her side of politics with sufficient funds to gain re-election, all under the auspices of this bill.

The Premier has placed millions of dollars of Federal funding for our State in jeopardy by backing away from the national occupational health and safety agreement in a blatant attempt to secure union support for her party at the next State election. It is a disgraceful example of the Premier putting her party's political self-interests ahead of the interests of the people of this State. Through their support of this role, the Greens have demonstrated that the Federal Labor-Green alliance has come to Macquarie Street. Their reputation on this issue has been tarnished and their credibility dented. While the Greens proudly trumpet the fact that they accept donations only from individuals, they have given their support to the Government's flawed legislation, including the provision for unions to fund proxy campaigns. Why? The Greens will have a chance to explain to the Chamber, and I will be interested to hear what they have to say. Others have speculated on this issue.

In order to secure the Greens support for this bill, it seems the Government has dropped the tiered system of public funding, where a vote of between 4 per cent and 8 per cent qualified for a 50 per cent refund of campaign costs and a vote of above 8 per cent qualified for a full reimbursement. That was the proposal put to the Joint Standing Committee on Electoral Matters by the Electoral Commissioner. That is now gone. In its place the Government has proposed in this bill a single reimbursement threshold of 4 per cent. I was interested to read an article on Saturday by Imre Salusinszky about this change. Unsurprisingly, at the last election the

Greens received between 4 per cent and 8 per cent of the vote in 45 electorates and consequently are in line to receive substantially more public funding under the new system as a result of this change. As Imre Salusinszky noted in the *Australian* on the weekend, the Greens spent an average of \$2,407 in those seats in 2007. Now they will be able to spend \$10,000 and get every cent back under the new public funding guidelines. They will get every cent back rather than dollar for dollar.

The Premier's refusal to take on board the concerns we have raised about the oversight of government advertising, the operation of the electorate mail-out account [EMA] entitlement and third party campaign spending by unions confirms that these reforms are a con job. They are flawed and unbalanced. The New South Wales Liberal Party and The Nationals have argued for effective, comprehensive and meaningful reform that will restore confidence, integrity and transparency to our State's maligned political system. The Government has not met the challenge and has not put the interests of the people of New South Wales first. This is an opportunity lost. I speak now also on behalf of my colleague the Hon. Jennifer Gardiner, with whom I have worked on both committees that have dealt with this issue during this parliamentary session. I know that she will contribute later in the debate. For those of us who have put so much time into working for reform, this is a very disappointing result. I foreshadow that the Opposition will move a series of amendments in Committee to try to incorporate some integrity into this legislation.

Reverend the Hon. FRED NILE [5.24 p.m.]: The Government claims that the Election Funding and Disclosures Amendment Bill 2010 is a response to the report of the Joint Standing Committee on Electoral Matters into the public funding of election campaigns. That claim has been challenged by committee members who do not believe the bill reflects all the recommendations of the joint standing committee. This bill is radical in its design. Some aspects of the bill will not be fully understood until the Electoral Commission and Election Funding Authority implement the legislation at the next election because some of the procedures outlined in the bill are so complicated. I asked government advisers whether the Electoral Commission and Election Funding Authority were totally supportive of the drafting of this legislation because they have to implement it. I have been involved in elections for many years and I consider that some of the provisions will be difficult to interpret or implement in a practical way.

I am pleased with the intention to cap donations. As previous speakers have said, the bill provides that third parties, including unions, may not spend more than \$1.05 million. As the Hon. Don Harwin pointed out, for 20 unions that is more than \$20 million, which throws off balance the requirement to restrict or cap donations. The Select Committee on Electoral and Political Party Funding, which I chaired, recommended that the cap on donations be a flat \$1,000. I consider that is the appropriate cap to be applied.

The DEPUTY-PRESIDENT (The Hon. Kayee Griffin): Order! Members should show respect to the member with the call and listen to his contribution in silence.

Reverend the Hon. FRED NILE: A limit of \$1,000, as recommended by the select committee, would be the most appropriate way to deal with the perception of corruption through the use of donations to members of Parliament, candidates or political parties to influence political decisions. The perception of corruption was readily accepted in developer donations and the House supported the prohibition on donations from developers. Restrictions must also be placed on other bodies, particularly when amounts of \$20 million are involved. This bill does not impose any cap at all.

The Greens have indicated that they will move an amendment in Committee to extend the restriction to organisations that manufacture or sell tobacco products. I will support such an amendment. I foreshadow that, as a matter of consistency, I will move amendments to add alcohol and gambling products as tobacco, alcohol and gambling are the three antisocial products. Organisations that manufacture or sell these products—for example, tobacco companies, the Australian Hotels Association and gambling businesses—should not be able to use donations to influence any government, whether Coalition or Labor, to introduce legislation that would favour their activities. I hope that all members of the House will give serious consideration to those amendments in the Committee stage.

The bill provides that political donations in a financial year from individuals, registered political parties and other entities will be capped at \$5,000 for registered political parties or groups and \$2,000 for candidates or elected members. A candidate's campaign expenditure will be capped at \$100,000 per electorate during a regulated period if the candidate is endorsed by a party or \$150,000 if the candidate is not endorsed by a party. For the 2011 State election this regulated period will commence on 1 January 2011 and for each election thereafter it will commence on 1 October in the year prior to the election.

Expenditure by political parties will be capped at a total of \$100,000 multiplied by the number of electorates they contest. That would mean \$1,000,000 if a party contested every electorate, which the major parties do. In recent times the Greens have done that, and the Christian Democratic Party is working towards having 93 candidates—one for each State electorate. But \$100,000 multiplied by 93 is a huge amount of money to be expended by political parties. Within this total cap, expenditure by political parties will be capped at \$50,000 per electorate for material related to a particular electorate, in addition to each candidate's expenditure cap. That would take the amount to \$150,000.

Expenditure by political parties contesting only the Legislative Council will be capped at \$1.05 million, which may have some effect on parties. The Shooters and Fishers Party can speak for themselves, but some of these restrictions seem to be targeting that party. I am sure the Hon. Robert Brown will point that out in due course. Membership fees will be capped at \$2,000 and registered political parties will be prohibited from using them for campaign purposes. Affiliation fees will be prohibited from use for campaign purposes. A new public funding model will reimburse parties, groups and candidates for actual expenditure on a progressive basis up to their maximum entitlement.

This is the point I made earlier: the Election Funding Authority will have to implement a procedure that is most complicated. It amazes me that someone would spend so much time working out a formula that probably has some traps in it that are not obvious at first. Schedule 2 to the bill contains a table setting out the amount of money to be distributed from the election campaign funds to a party eligible for payment from the fund in respect of a State election. Members will see how confusing this is. The table states:

Eligible Assembly party

100% of so much of the actual expenditure of the party as is within 1-10% of the applicable expenditure cap, plus

75% of so much of the actual expenditure of the party as is within the next 10-90% of the applicable expenditure cap, plus

50% of so much of the actual expenditure of the party as is within the last 90-100% of the applicable expenditure cap.

Compare that with the current system where the party had to achieve 4 per cent of the first preference votes and received a payment per vote for actual expenditure, which has been about \$2.10—it went up each year with the consumer price index increases. The new formula is very complicated. For the eligible Council party the table states:

100% of so much of the actual expenditure of the party as is within zero to one third of the applicable expenditure cap, plus

75% of so much of the actual expenditure of the party as is within the next one third to two thirds of the applicable expenditure cap, plus

50% of so much of the actual expenditure of the party as is within the last two thirds to 100% of the applicable expenditure cap.

I am sure most parties will be confused as to exactly what they will get under that complicated formula. I will move an amendment in Committee to reduce the level of eligibility from 4 per cent to 2 per cent of first preference votes. When the Labor Party introduced this legislation for public funding its main argument was that it would help democracy to be more effective and would encourage smaller parties and independent candidates to become involved in the electoral procedure by nominating and standing. This public funding gave them the hope that if they reached a certain percentage they would be reimbursed for actual expenditure. At that stage the Government put the figure at 4 per cent, which the Parliament supported. I have always argued against that.

When we questioned the Electoral Commissioner during a joint standing committee inquiry he said it would not be a problem if there was no required percentage: if you were elected the number of preference votes you got would be multiplied by the allocation per vote—whether it was nil per cent, 2 per cent or 4 per cent. I will move an amendment in Committee to reduce it to 2 per cent in a genuine attempt to encourage democracy in this State; otherwise we are setting up a system that reinforces the superiority of the major political parties—the Labor Party and the Liberal-Nationals Coalition, and now the Greens because of its increased vote. I suppose that is why the Greens have been the only party involved in the negotiations to prepare and approve this legislation. From the Labor Party's point of view it is about numbers—the Greens guarantee it the four votes it needs to have this bill passed if the Opposition opposes the bill, which I assume it will. Because the Greens have become a larger minor party it has a vested interest in this legislation. The Greens have changed from being a voice of democracy, as its members claimed to be in the beginning, to being a true political party in the worst sense of the word: it acts in the same way as the other political parties have been acting over the years.

The bill contains a lot of restrictions in relation to third parties, and this is a grey area that involves the unions and other organisations. The bill provides that third parties may not receive more than \$2,000 from each donor in a financial year, third parties may not spend more than \$1.05 million when registered by 31 December in the year before an election, and so on. Another confusing aspect of the bill is the reference to an aggregate of restrictions on spending. It is not clear to me how that would apply. Donors will be limited to no more than three donations of up to \$2,000 each to a third party in a financial year. To me, that means \$2,000 each multiplied by three, which is \$6,000. There is no cap of \$2,000; it is actually \$6,000. The bill is not meeting its objectives of reducing the problem of donations being used to influence political parties.

The select committee had extensive debate about the \$1,000 limit on donations and whether a cap could be the subject of a constitutional challenge. That possibility was the reason the committee's recommendation was not adopted. The Government has now decided to implement a cap, although it is not as good as the cap recommended by the committee. I wonder why it is no longer concerned about the possibility of a constitutional challenge.

The bill also amends the provisions relating to advances provided to parties for public education. That is now a flat rate of \$80,000 per candidate. The Administration Fund that will replace the Public Education Fund will provide \$80,000 for each member of the Legislative Assembly and the Legislative Council up to a maximum of \$2 million. That is more than was paid through the Public Education Fund. I am sure that the Independent members of the Legislative Assembly will be pleased to get that \$80,000, because I do not believe they have been eligible to apply for funds in the past. That may have increased their enthusiasm in supporting the bill in the other place.

The bill also establishes a Policy Development Fund that will supposedly help new parties. It provides that a new party will be eligible for funding of at least \$5,000 for its first eight years. My reading of that suggests that parties will get only \$5,000 over eight years rather than \$5,000 each year for eight years. That will not be of much help to a new party. A reduction to 4 per cent would help new parties, which is the intention of my amendment. The bill has some positive and negative provisions. As I said, because the Government has had negotiations on this legislation with the Greens it will be passed. However, I hope it will consider the amendments that have been foreshadowed in good faith and will support them in Committee. I am yet to decide whether to support the bill.

The Hon. ROBERT BROWN [5.45 p.m.]: I will step out of character and instead of doing what my predecessor and mentor advised me to do—that is, to be short, sharp and to the point—I will get stuck into this debate. The Shooters and Fishers Party made submissions to the Select Committee on Electoral and Political Party Funding, of which I was a member, and later to the Joint Standing Committee on Electoral Matters putting its view that the Electoral Act needed to be reformed because the public is concerned about rorting of the system. The Rees Government amended the Act to knock out property developers because they were seen to be part of the problem.

Some members have developed a desire to make historic changes to the way in which we do our political business. The voters of this State are not interested in historic change; they simply want to stop the rorts. The easy response would have been to double the Electoral Commissioner's budget and to punish members who do the wrong thing. Instead, the Government has tried to condense a 400-page joint parliamentary committee report into the bill before us. This bill is a complete disgrace. It represents nothing more than political opportunism writ large. I note that the co-conspirators in the deals that have been done do not have the guts to be in the Chamber. I want to see their faces when I present my interpretation of their part in this scenario.

Dr John Kaye: I'm here.

The Hon. ROBERT BROWN: The leader/deputy leader of the Greens, Dr John Kaye-bridge, is here. What I will call the "negotiations" that the Premier's office had with the Shooters and Fishers Party, the Christian Democratic Party, the Independents in the lower House and their mates the Greens turned into a relay race. Someone would get the baton and then up the ante to see if they could score a couple of points. While listening to the detail of this disgraceful series of events members will feel the hair curling on the back of their necks. There is no-one in the press gallery, so my contribution might not be more widely reported. The Premier's office made the Shooters and Fishers Party an offer and we suggested that they read the party's submission to the Select Committee on Electoral and Political Party Funding and the later submission to the Joint Standing Committee on Electoral Matters. They say the same thing: We need proper governance of the current system.

The Hon. Duncan Gay: What was the offer?

The Hon. ROBERT BROWN: I will get to that, and versions Nos 2, 3 and 4. The Premier finally realised that this bunch of rednecks did not intend to move. I apologise, she would not say that about us. She realised that the Greens would be easier to deal with than the Shooters and Fishers Party. At the end of all the argy-bargy I asked the Speaker to host a meeting of the Independent and crossbench members. Only one Independent member showed up and he was as happy as he could be.

Dr John Kaye: That is not true; Richard was there.

The Hon. ROBERT BROWN: Of course, there were two. They were doubly happy. The Government said that it would give them \$80,000 each when previously they would have been lucky to get about \$20,000 to repay some of the money they had to borrow to run an election campaign. People asked us what we were bitching about because we would be getting \$80,000 and we should be happy. Do people think that we can be bought off? The Greens think we can, and we think they can. At the last election we received about \$220,000 for attracting 110,000 votes to elect the late the Hon. Roy Smith. We were happy with that. Our donors are very generous, although they are not tobacco companies.

The Hon. Charlie Lynn: And genuine.

The Hon. ROBERT BROWN: And genuine. Our donors do not represent sleazy commerce trying to buy our vote; they are people who expect us to stand in this place and protect their backs. We have to go to them tomorrow and say, "Sorry, we have been done over." One of the proposals put to us by the Premier's office was a complicated arrangement of what reimbursements would be paid for achieving certain benchmarks. What it came down to was this: if we take, say, \$100 as the maximum, reimbursement for a small party like the Shooters and Fishers Party was worth \$30; reimbursement for The Nationals was probably \$50; and reimbursement for the Labor Party and the Liberal Party was \$100. I took that proposition and the piece of paper it was written on to a meeting of the Hunter District Hunting Club at Cessnock—Labor heartland. The patron of the Hunter District Hunting Club is none other than Stan Neilly, who was the unfortunate victim of the shooters getting irritated in 1987 or 1988—whenever it was—by the Unsworth Government.

Stan Neilly fully understands what the voters in his electorate thought about that little exercise. When I told him that the Labor Party was proposing that one vote was not worth one vote but a third of a vote for some, two-thirds of a vote for others and a whole vote for others, he was appalled. He talked about how elder Labor Party people who had passed on would be turning in their graves at the sell-out. Then we have this mob here, the Greens. In the meeting organised by the Speaker, Mr Kaye came in late, happy as the proverbial pig, and made the statement, "It's all right, fellows, relax; we looked after you."

Dr John Kaye: Point of order: I think epithets such as calling other members pigs is inappropriate—particularly for a party that likes to shoot them.

The Hon. ROBERT BROWN: If the member refers to the *Hansard*, he will realise that I did not use the word "pig".

The Hon. Duncan Gay: You did. You said he was as happy as a pig.

The Hon. ROBERT BROWN: Yes. I would not call you a pig, sir. If I did, I would expect you to call me outside. Maybe I am getting a bit overwrought. This member came into that Chamber and the hubris—

The DEPUTY-PRESIDENT (The Hon. Kayee Griffin): Order! I regret interrupting the member but I do so to rule on the point of order. On my understanding, the expression used by the member was "Happy as a pig." When exception is taken to such an expression being directed at another member, it is not unusual that a request is made that the member with the call temper his or her language. Accordingly, I uphold the point of order and ask the member to choose his words more carefully in future if he wishes to direct similar comments at another member.

The Hon. ROBERT BROWN: Thank you, Madam Deputy-President. I will go further than that. I withdraw and I apologise to Dr John Kaye if I offended him. I did not mean to. This is not about individuals, this is about how the Government—

The DEPUTY-PRESIDENT (The Hon. Kayee Griffin): Order! I will not permit a discussion across the Chamber about a matter upon which I have just ruled. Members should treat one another civilly and with respect even when they are addressing a point of view put by another member with which they do not agree.

The Hon. ROBERT BROWN: As I said before, I will restrain myself and try to stick to the matter at hand. On behalf of the Shooters and Fishers Party I express our sheer disappointment at the way this Government has gone about getting this legislation through under these circumstances—a 400-page report from a joint committee of both Houses turned into a fairly substantial bill that goes way beyond the remit of what caused the problem to start with. I would very rarely agree with Lee Rhiannon's philosophies or, indeed, some of her attitudes, but it was Lee Rhiannon who started this process and I do not think she would be all that happy seeing democracy treated so vilely as it is treated in this bill.

The Hon. Duncan Gay: Come on!

The Hon. ROBERT BROWN: Lee Rhiannon was a true hard-nosed Trotskyite, yes, but I know for a fact the order in which the Government did its negotiations. I do not know whether it first came to the Shooters and Fishers Party or went to the Christian Democrats, but this is when the Premier suggested a range of reimbursements depending upon who the voter was voting for. We came back and said, "No, madam, it is definitely not on. We do not accept that. Our people would not accept that and I am surprised some of yours do." We came back with an amended offer, and so it went on. The penultimate part of that negotiation was as I said. We had a meeting in the Speaker's office and it was pointed out to us that it is all over, the deal has been done, but Mr Kaye did point out to us that he had looked after us.

The Shooters and Fishers Party does not necessarily believe that is the case—not that he has not looked after us but that this bill is in the best interests of not just the Shooters and Fishers Party but any small party trying to get there. It is a silly concept to say that your membership fees have to go into an Administrative Fund and you can use this amount of money for that. Our members pay \$30 a year to be a member of the Shooters and Fishers Party—we have a pension rate too. They expect those hard-earned dollars to be used to make sure that we do the best we can to give them representation in this place, not for running an office or computers or buying buildings or running cars around this State. In these negotiations we told the Premier we do not need a lot of money to run our party but we do need money to fight campaigns.

The concept, for example, of comparing an independent lower House member with a small party in the upper House is a stretch. The costs of an Independent in a Legislative Assembly electorate are constrained because the boundary in some of them is only 20 or 30 miles in each direction. Upper House members have to travel, if they want to talk to constituents, over the whole of the State. I am not saying we want more than \$80,000. I am saying there is nothing wrong with the way the system was before this business; that is, the Government was willing to reimburse the cost of a political party up to a certain amount depending on how many votes it got. That encourages political parties to do the very best they can to get the message to potential constituents to grow the size of the party. The Shooters and Fishers Party does not want to control the country.

Mr David Shoebridge: You have the Game Council.

The Hon. ROBERT BROWN: Wasn't that brilliant? That was a very good bit of legislation, and it is about the one shining light in the history of the Shooters Party and the Labor Government—it did something right, based on good policy.

Mr David Shoebridge: You have your own river of money.

The Hon. ROBERT BROWN: Let us talk about a bit of that, shall we? The Game Council is not handed \$90 million a year like some of the member's constituents are. I have a list here of the sneaky little sums of money that go out to branches of the National Parks Association—Armidale branch, \$4, 200; Clarence Valley branch, \$4,231. What do they do with the money? Do they go out and kill feral animals? Do they build trails? Do they pull weeds? No, they do not. They campaign.

The Hon. Charlie Lynn: For the Greens.

The Hon. ROBERT BROWN: That is exactly right. With the support of this Government bill the Greens has morphed from a party that probably could claim it had some credibility as fighters for freedom and democracy into just another grubby bunch of moneygrubbers—get more power and cut out the other people. It

was a tiny little fillip to give the small parties \$5,000. As Reverend the Hon. Fred Nile said, it is not clear whether it is \$5,000 over eight years or \$5,000 a year for eight years. The Shooters and Fishers Party does not support the bill.

We believe the Government has gone well beyond the remit that might have been granted by public disturbance over the funding by certain groups to certain parties. If one were to ask whether the Government needed to go this far for the purposes of showing the taxpayers of this State that it was prepared to fight corruption, one would find that the answer is that the Government has gone far beyond that point. The Shooters Party submission to the select committee stated that it did not believe that the Government should take this action without informing the people of New South Wales how much it will cost. In all probability the one million licensed fishermen and couple of hundred thousand shooters and farmers in this State are unaware that some of their taxes already go towards funding political organisations such as the Greens, the Shooters and Fishers Party and the Christian Democratic Party.

Mr David Shoebridge: Like the Game Council.

The Hon. ROBERT BROWN: No, they get value for money there, mate. I have to go back to my constituents and say, "This will roll out nationally. The major parties will make sure of that." It will then extend to local government elections, and what will be the cost of that? That is a very good question, and I do not know the answer to it. But we all should know the answer to that question before we debate and pass the bill and put an impost on the people of New South Wales greater than what they currently have. As to the unions being able to put in a million bucks each, resulting in the Labor Party receiving more than the Liberal Party, I hate to be callous, but we do not really care? We believe there is a role for organisations such as the unions, the Sporting Shooters Association of Australia and supporting organisations to be able to say to governments, "We think that these ideas are worthwhile and we are prepared to support them, either with voluntary labour or with money." This concept of putting your hand out for \$200 to encourage citizens to donate to political causes might be fine but it is not the way the real world works.

Dr John Kaye: It worked for President Obama.

The Hon. ROBERT BROWN: Yes, but that was President Obama, not Dr John Kaye. I have spoken for long enough. I have made the point that the Shooters and Fishers Party agrees with the following Paul Sheehan quote that appeared in the *National Times*: "This is Keneally democracy. This is Green morality". We will make sure that the taxpayers of this State understand exactly what all that means. We cannot support the bill. I doubt very much whether we will support many of the amendments but we will consider each of them on its merits.

Reverend the Hon. Dr GORDON MOYES [6.03 p.m.]: As parliamentary leader of Family First I speak on the Election Funding and Disclosures Amendment Bill 2010. Ever since the conflict between the New South Wales Corps and Governor Bligh 200 years ago, the Rum Rebellion, the most disgraceful aspect of political life in New South Wales has been the corruption and influence buying on behalf of corporations that are looking for government favours—for example, the right to sell rum—and from individuals who decide to buy positions in Parliament and to gain the ear of decision-makers for their own benefit. One common approach has been through making donations to cover some of the costs of a politician's next election—donations that go towards funding election advertising campaigns of political parties. Donations from trade unions also play a big role, as do, to a lesser extent, donations from individuals.

The Australian Electoral Commission records donations to political parties and publishes a yearly list of major identifiable political donors—although donors can sometimes hide their identities behind associated entities. Corporate political donations have increased dramatically and all major parties employ fundraising staff to gather these donations. Between the years 1995 and 1998 corporations donated \$29 million to Australian political parties. The largest corporate donor during this period was Westpac Bank. By the year 2002-03, the amount of corporate funding to Australian political parties had risen to \$69.4 million. In 2004-05 the Labor Party raised \$64.8 million from the corporate sector, while the Liberal Party raised over \$66 million. Most of the large corporate donors conduct business in an area greatly affected by government policy and are likely to benefit from government contracts.

In 1984 the Hawke Government introduced public funding for political parties with the intention that it would reduce the reliance of parties on corporate donations. The scheme failed its stated goal, as political donations from corporations have increased since that time. During the 2004 election the Government paid

\$41.9 million in public funding to political parties. The Liberal Party received \$17.95 million in public funds, while the Labor Party received \$16.7 million. The Australian Labor Party is the main beneficiary of trade union donations in Australia, as would be expected. During the year 2004-05 trade unions donated \$49.68 million to the Labor Party's head office. Critics have accused the unions of buying seats to Australian Labor Party State conferences. In 2001-02 money from trade unions amounted to 11.85 per cent of the Labor Party's income.

Recently the shooting in cold blood of New South Wales businessman Michael McGurk has intensified allegations of endemic government corruption in New South Wales. Mr McGurk was shot at his Cremorne home in a targeted killing. Before his death he told reporters about a recording he claimed to have made containing revelations that implicated New South Wales and Federal Labor politicians in corruption. The tape is purported to contain conversations about members of Parliament receiving payments from businessmen in return for favours. An Independent Commission Against Corruption investigation found no evidence of actual corruption of politicians.

Mr McGurk apparently owed Ron Medich a large amount of money. Three contract killers have been charged with his murder, as has Mr Medich. Mr Medich recently donated \$260,000 in the hope that the New South Wales Labor Government would rezone areas of Badgerys Creek for housing development. If the areas were rezoned, Mr Medich could make hundreds of millions of dollars profit. The Government, in spite of the Australian Labor Party donation, has not rezoned that land. Accusations of political corruption have long been part of political debate in New South Wales and other States. The Independent Commission Against Corruption has been busy hearing charges against individual parliamentarians and a number of councils. The worst of these was the Wollongong City Council. The incarceration of a former Minister of the Queensland Beattie Government for corruptly receiving \$360,000 in secret payments from Queensland businessmen reveals a recent example of blatant corrupt behaviour.

Although the Federal Government in Australia raises most of the revenue, the State governments spend it. Education, police, health, roads, transport, housing and justice fall largely under State jurisdiction, presenting potentially large opportunities and rewards for corrupt activity. Both the major political parties in Australia, Labor and the Liberals in coalition with The Nationals, have been accused of succumbing to these opportunities when in power at the State level.

In recent decades corruption accusations surrounded New South Wales governments under Liberal Premiers Robert Askin and Eric Willis, and under their Labor successors, Premiers Neville Wran and Barrie Unsworth. In the 1988 election the Liberal leader Nick Greiner promised to establish an Independent Commission Against Corruption [ICAC] to investigate activities and recommend prosecution against individuals where necessary. Ironically, in 1992 Premier Greiner and one of his Ministers were forced to resign from Parliament following an ICAC investigation into their involvement in appointing a former colleague to a senior bureaucratic position. The courts later cleared both the Premier and his Minister.

Professor Mark Findlay, the Director of the Institute of Criminology at the University of Sydney, has described the success and failures of the ICAC. I will not go into that in any detail. However, Professor Findlay stated that the ICAC has slowly reversed an intensely corrupt local government planning structure; it has radically improved public tendering; and it has challenged the improper use of public information. These are long-lasting betterments of public administration. But when faced with corruption within the police and prison systems, the ICAC prevaricated and failed.

In a paper entitled "Perils of Government Dominance" Professor Scott Prasser argues that parliaments cannot rely on watchdogs alone to guard against bad government. In recent decades we have seen the dominance of the Executive Government over the Legislature, the judiciary, and the public service. This is a threat to democracy and goes against the doctrine of the separation of powers. Sadly, that has long been a common feature in New South Wales politics. Perhaps Professor Findlay rightly encapsulated the mood of the people when he wrote:

Irrespective of the outcome, the community is convinced that corruption remains a feature of public life in New South Wales. After a quarter century of corruption prevention, ICAC has been incapable of stemming high-level political corruption. Neither has it succeeded in overcoming public suspicion that it is business as usual in Macquarie Street.

This week the New South Wales Opposition has staked a claim to the moral high ground in the ongoing State stoush over campaign finance reform, with a proposal to restrict donations to individuals on the electoral roll. The feud over electoral reform continued in the New South Wales Parliament on Tuesday this week with the

Greens announcing an amendment to ban tobacco company donations—still accepted by the Opposition but not by the Labor Government. Under pressure to support the ban, New South Wales Opposition Leader Barry O'Farrell announced his own amendment restricting donations to individual voters.

The Government's reforms would introduce annual donation caps of \$5,000 to parties and \$2,000 to individual candidates or members of Parliament. The Government's campaign finance reforms have been assured passage through the Parliament with the support of the Greens. Apart from the donation caps, there will be tough restrictions on party and candidate campaign expenditure, while third parties would each be able to spend \$1.05 million ahead of an election. The inclusion of unions within the third party caps has been a major sticking point for the Opposition—a "rort", as the Opposition calls it, designed to benefit the Labor Government only. I spoke and voted against these changes, which are designed to benefit the Labor and Greens parties. Minor Parties, such as the Christian Democratic Party and Family First, depend upon individual donors. Therefore we support the O'Farrell amendments.

There is still the issue of individuals buying their position by either personal donations or by enabling donations from their union or corporation. Many very generous donors have sought preselection as a party's favourite candidate to allow them to enter Parliament. The most recent example has been this week, with the Liberal Party selecting its candidate for the safe Liberal seat of Castle Hill. According to the press, Ashley Pittard has political ambitions. A great deal has been said about how he has used his wealth. New South Wales Election Funding Authority records show that Mr Pittard has donated more than \$360,000 to the Liberal Party since 2007. Mr Pittard's generosity has prompted plenty of discussion about his bid for the seat. Mr Pittard also has a history of donations to the Federal Electoral Council covering the seat of Mitchell. Mr Hawke eventually won that seat.

Donation records show that Mr Pittard contributed \$150,000 to the Mitchell Federal Electoral Council in 2007. In April last year Mr Pittard contributed \$75,000 to the Mitchell Federal Electoral Council. In July this year, before the Federal election, he gave another \$45,000. That is an incredible level of giving, in any sense of the word. Perhaps it is a sign of political maturity, but the Liberal Party selectors eventually gave the preselection to a competitor of Mr Pittard. I remind the House that when Henry Parkes was Premier of this State he regularly sold positions to the Legislative Council, using the money he received to pay off his personal debts or to buy favourable treatment for land development that would result in huge profits for corporations. Public funding for elections is desirable in light of present practices that have led to corruption. We may not want to pay for elections, but so far it is the best way of ending the corruption of political donations.

With regard to the objects of this bill, from the outset I will say that the bill is essentially about creating an even playing field during election campaigns. It aims to promote fairness and integrity by capping the amount of electoral campaign expenditure during an election campaign, therefore limiting the extent to which one party becomes unfairly advantaged because that party has access to greater funds than its opponents. As the Hon. Robert Brown said, this bill came about from recommendations made by the Joint Standing Committee on Election Reform. Under the bill's proposals, from 1 January donations to political parties will be capped at \$5,000 and donations to candidates will be capped at \$2,000. In the other place, candidates' campaign expenditure will be limited to \$100,000 each, while parties will be allowed to spend a further \$50,000 in each electorate they contest. Third party campaigners, such as unions or lobby groups, will be required to register as such if they donate more than \$2,000 per financial year, and then their donations will be capped at \$1.05 million.

One common approach has been through making donations to cover some of the costs of the politicians' next election. The donations go towards the funding of the parties' election advertising campaigns. The Australian Electoral Commission records donations to political parties, and publishes a list of identifiable political donors. I believe the new capping system will address the growing concern in the community that people who donate to political parties enjoy special access or special influence. Indeed, it is openly said that seats at a dinner together with a Minister or a Premier, or a Prime Minister or a Treasurer, can be sold for vast sums of money. The bill will also introduce the disclosure of political donations and electoral expenditure, as well as the creation of separate campaign accounts, to ensure a politician represents all his or her constituents rather than the interests of the few who fund his or her campaign.

Other countries, including New Zealand, Canada, Germany and the United Kingdom, have already acted to reform electoral funding by capping electoral donations and regulating the disclosure of election funding. In the United States of America, current campaign finance law at the federal level requires candidate committees, party committees and political action committees to file periodic reports disclosing the money they

raise and spend. Some parts of the United States have even introduced "clean elections", which are a form of campaign finance reform. Unlike traditional campaign finance laws that focus primarily on restricting spending and placing caps on campaign donations, clean elections laws provide a public grant to candidates who agree to limit their spending and private fundraising. Candidates participating in a clean elections system are required to meet certain qualification criteria, which usually include collecting a number of signatures and small contributions—generally determined by statute and set at \$5 in both Maine and Arizona—before the candidate can receive public support.

To receive the government campaign grant clean candidates must forgo all other fundraising and accept no other private or personal funds. One might suggest that the introduction of donors being forced to remain anonymous, like our voting system, would result in a system in the United States that simply would not work. Benjamin Hourigan in his publication entitled "Who pays: Political Democracy and Democratic Accountability" says it simply, when he says:

If political campaigns have become too extravagant, causing spending to reach unsustainable levels, our political leaders must simply exercise some restraint, as indeed they must when managing government spending. Public funding for elections would shield the parties from shouldering their own financial obligations, making taxpayers finance their excesses.

Disclosure and capping remains the best regime of campaign finance regulation. All donations should be disclosed, however small, leaving little room to avoid scrutiny. Public funding for elections is desirable in the light of present practices that have led to corruption. The public may not want to pay for elections but it is the best way of ending the corruption. As Parliamentary Leader of Family First, I cannot support the bill because of the mixed methodology of applying funding. However, I will be voting in favour of some of the proposed amendments.

The Hon. TREVOR KHAN [6.20 p.m.]: I am cognisant of time so I will not take too long commenting on two aspects of the bill. The first relates to corporate donations. Let us be clear, this issue has been around for some time. In the past the Greens have called for a ban on corporate donations but they are now walking away from that position. A media release of Ms Lee Rhiannon, a former Greens member in this place, dated 7 August 2009 states:

Greens MP Lee Rhiannon has called on NSW Opposition Leader Barry O'Farrell to toughen his policy on donations reform to match that of his Liberal colleague, South Australian Opposition Leader, Isobel Redman, who yesterday committed to the Canadian model of electoral funding.

"The New South Wales Opposition Leader should inject some backbone into his policy by banning corporate donations and limiting individual donations to \$1,000 as in Canada," Ms Rhiannon said.

In August 2009 Ms Rhiannon, on behalf of the Greens, was advocating a ban on corporate donations. It is strange that she was prepared to then go on the attack on behalf of the Greens challenging the Coalition in respect of that position, but now the Greens, at least in media releases, are walking away from that position. What has happened to the Greens? I will not engage in the speculation that others may engage in, but I shall refer briefly to an ABC media report entitled "Wollongong's ICAC Scandal: The sequel". It states in part:

Barry O'Farrell maintains the New South Wales Opposition is "fair dinkum" about implementing reform.

He says he wouldn't support a total ban because it's people's rights to donate like it's their right to vote, but there should be a cap and all corporate donations, including those from trade unions, should be banned.

"We would go to a part funding", he said.

"People have a right to make a donation so I've talked about a cap of \$1,000 or \$1,500 per year, and if people want to donate that to a candidate that's fine", Mr O'Farrell said this week.

"What I'm not going to permit is the tens of thousands of dollars donated by corporations that sometimes aren't even Australian corporations."

But Greens MLC Lee Rhiannon says there simply isn't the commitment from either side of politics to make the necessary changes.

Here we have a commitment from the Liberal-Nationals Coalition for appropriate amendments to this legislation. Those who are showing an unwillingness to commit are the Greens. The Greens are often happy to throw the mud around, but on this occasion they are not prepared to stand by a modicum of their own principles on this matter. I am often accused by various members in this place of not standing by my principles. But I do stand by my principles, even to my own detriment sometimes. Ms Rhiannon and other Greens members have

often shouted at me across this Chamber about my conscience and lack of preparedness to stand by my principles. It is so easy for the Greens to fling such remarks at Opposition members but, sadly, on such an important piece of legislation, which is fundamental to the operation of our democracy, they walk away from the required standard of conscience.

[Interruption]

The Hon. Duncan Gay: Point of order: My point of order is that I cannot hear the speaker. There is prattling from a child in the House.

The DEPUTY-PRESIDENT (The Hon. Kayee Griffin): Order! All members should show respect to the member with the call and not interrupt his contribution. I find it interesting that the Hon. Duncan Gay took a point of order, given that he was rather vocal earlier in this debate.

The Hon. TREVOR KHAN: Let us be quite clear, this legislation will encourage third party campaigning; placing a cap upon party donations and party expenditure will encourage third party campaigning. It is essential for members to be satisfied that the legislation deals appropriately with third party campaigning because the impact of this legislation can be quite significant and negative. For reasons that are unclear, the Greens will not address the real issue of third party campaigning. As I have said in other places, my concern is not merely about third party campaigning by trade unions; I am concerned about third party campaigning by all groups and the impact that can have. When members have been permitted a conscience vote on specific matters in this House, many have spoken passionately when giving their views, and one of the high points of my time in this place has been listening to the obvious considerable thought that has gone into such contributions.

My concern is, and it should be the concern of every member, that third party campaigning will create a circumstance in which people will be frightened to exercise their will. The amendments sought to be introduced by the Opposition should be given proper and considered judgement by all members and, in so doing, they should also consider what impact this legislation will have beyond its immediate and apparent effect. On occasions the Greens keep members in this place into the wee hours of the morning putting a point of view that they know will be agreed to by only four members in this House. This time they should exercise an appropriate degree of conscience and allow this bill to be returned to the other place, in order that we can see just where the Labor Party stands in respect of any amendments agreed to by this House.

[The Deputy President (The Hon. Kaye Griffin) left the chair at 6.30 p.m. The House resumed at 8.00 p.m.]

The Hon. ROBERT BORSAK [8.00 p.m.]: On behalf of the Shooters and Fishers Party I speak in debate on the Election Funding and Disclosures Amendment Bill 2010. My party is extremely disappointed at the way this Government has gone about having this legislation passed under any circumstances. That would not have been possible without the help of the Trotskyites in the Greens—the same party that has been beating the drum for electoral reform for a number of years. However, as soon as an opportunity presented itself to financially milk the taxpayers of this State it would appear that for the Greens some socialist reform is better than none.

After 16 years of promising and doing nothing about electoral funding reform, this Labor Government has now conveniently found the will to try to take the high moral ground in its dying days in office. Members should forget any rhetoric that this is somehow a bill that implements groundbreaking reforms to political donations. The truth is that it is simply a bill designed to disadvantage the Opposition and minor parties such as the Shooters and Fishers Party and a desperate attempt to minimise the carnage that this Government faces in March next year. What is certain in March of next year is the complete electoral annihilation of this Government, in part because of the Greens. For years the Government has pandered to the extreme Greens and their anti-everything except a socialist agenda, which would be more at home in North Korea and Cuba.

The nearly 400-page joint standing committee report has been reduced to a number of self-serving proposals and is an outright attack on the political processes in general and on minor political parties, such as ours, in particular. The Shooters and Fishers Party is the only party that has consistently held its position on electoral funding reform. Our party lodged submissions with the Select Committee on Electoral and Political Party Funding, which was established by the Legislative Council on 27 June 2007, and with the Standing Committee on Electoral Matters inquiring into public funding of election campaigns, which was established by this House on 3 December 2009. As chairman of the Shooters and Fishers Party I also gave evidence to this committee. Over the past year, the party has also held several discussions with the Premier and had a meeting

with the New South Wales Electoral Commissioner. I reiterate what I said earlier: The Shooters and Fishers Party is the only party that has consistently held its position on electoral reform, unlike the Greens—about which I will have a little more to say later.

The Shooters and Fishers Party is philosophically opposed to any change to the existing system, with the exception that it would support a strengthening of audit controls and procedures, including auditing trails, reporting and compliance rules. On the question of public funding and political donations, the party has always supported public funding of political parties and election campaigns provided that the taxpayers of New South Wales are fully informed of the costs associated with a publicly funded election campaign and are given an opportunity to provide comment before any legislative changes can be made. The Shooters and Fishers Party does not support a ban on unions, businesses or other people being able to donate to a party for the running of an election campaign, nor does it support placing any limitations on the amount that unions, businesses or individuals can donate to a party. Likewise, the party does not support limiting campaign expenditure by political parties or candidates in an election campaign. It has insisted that better auditing safeguards be put in place to protect and ensure the integrity and transparency of the use of public funds and donations.

The member for Swansea in the other place made a very interesting observation. While the member is proud to support this Government-sponsored bill, he is not convinced that this new legislation is constitutionally sound. In other words, there is a possibility that the new legislation will leave itself wide open to a class action and could be knocked off in the Federal Court. In relation to this I will to raise two matters pertinent to the Shooters and Fishers Party. As I have said previously, the party objects to placing a limit on what an approved entity can donate to a political party. New South Wales is unique in the world in that it is the only Parliament that has members elected specifically on a charter to defend the rights of licensed firearms owners. Therefore, any limiting of donations from an approved entity impacts more on the Shooters and Fishers Party because of its narrow focus than it does on any other party. If the Shooters and Fishers Party cannot access its financial support, one could suggest that these changes are specifically designed to rid this Parliament of specific-interest groups, such as ours, who are sometimes viewed by the major parties as an irritant.

The other and more significant issue for a party such as ours is the quarantining of membership fees from use for campaign purposes. The quarantining of such funds defeats the primary reason that people join a party. They expect these funds to be used to get their representatives elected to Parliament and not for administrative purposes. The only reason membership fees have been quarantined now is that membership of the Labor Party has collapsed while minor party membership continues to increase at an astronomical rate. I concur with the member for Swansea in the other place and have severe reservations that the bill could stand up in a court of law on constitutional grounds if challenged. I am not a lawyer, but I do know that we have strong democratic conventions in this country.

As for the Greens, what can one say? As the Leader of the Opposition in the other place implied, a bloke called John Kaye has opted to take a lot of pieces of silver—an additional 1,597,414, in fact. That is a hell of a lot of taxpayer coins for a party that allegedly wants to clean up politics in this State. We can now say that, while they dig deeply into the pockets of New South Wales taxpayers, they harvest taxpayers' dollars to subsidise their socialist, job-destroying agenda. With all due credit to Dr John Kaye, he is no Lee Rhiannon. She would have checked and doubled checked their party's submissions and press releases, and even then she would not have locked herself into a deal with the Labor Government, as has Dr John Kaye.

Dr John Kaye: She supports this. Be honest and acknowledge that she supports it.

The Hon. ROBERT BORSAK: I have not heard her say that. How can I acknowledge it when I have not heard it? You know what she has said in the past in this place. You are well out of line with what she has said in the past and what your party has represented. You are well out of line.

The PRESIDENT: Order! Debate will proceed in an orderly fashion. Members will cease interjecting.

The Hon. ROBERT BORSAK: In 2008 the Greens submission to the Select Committee on Electoral and Political Party Funding argued that expenditure for individual lower House candidates in State elections be capped at \$30,000 and third party expenditure be capped at \$50,000. In 2009 the Greens' submission to the Standing Committee on Electoral Matters again argued that expenditure for individual lower House candidates in State elections be capped at \$30,000, but increased their preference for third party expenditure from the modest \$50,000 to \$100,000. Fast forward to 2010, and we have another position from the Greens—they have more positions than the Kama Sutra. Now it appears that the Greens support a \$100,000 cap for individual

candidates contesting lower House seats, and a whopping \$1,050,000 for third party expenditure—a tenfold increase on their previous position in 2009, and a twentyfold increase on their position in 2008. Why have the Greens so callously hopped into bed with Labor—or, rather, why has Labor allowed the Greens into its bed? As Paul Sheehan, writing in the *Sydney Morning Herald* on Monday, so eloquently put it:

... the Greens have aligned themselves with the election funding reform bill because it will enable a significant increase in the amount of funding they can extract from the taxpayer under the proposed funding rules.

Not content with their new partners, the Greens appear to be engaged in a practice known as "bed hopping", and again as Paul Sheehan points out:

... are now also in bed with the unions, both financially and ideologically, as this reform explicitly advantages union power.

According to Paul Sheehan:

this is Keneally democracy ... and Green morality.

He too would "vote for a green party, if such a party existed, but instead we have the Greens, a bipolar coalition of genuine environmentalists and genuine hard-left, anti-corporate progressives hiding under the flag of convenience of environmentalism." I beg to differ with Paul Sheehan on the last issue. There are no progressives in the hard-left of the Greens, just a bunch of regressive, job-destroying bigots, who display the highest class of social snobbery in this State.

The Hon. LUKE FOLEY [8.11 p.m.]: I support the Election Funding and Disclosures Amendment Bill 2010. For many years I have argued, both in my party and beyond the party, for an end to the arms race when it comes to the funding of election campaigns in this country. I have argued consistently that State Parliaments and the Commonwealth Parliament need to act to curb the big-money politics to ensure that the voices of the many, not the few, are heard in our democracy. I have argued that we need to safeguard our democracy against predatory outside interests. I recall putting many amendments to that effect on the floor of the annual conference of the New South Wales Labor Party. More often than not I was unsuccessful. There is no doubt that the day is overdue for the reforms contained in this bill. I accept that those who argue that the Government has waited a long time before doing this are right. I accept that. But that is not an argument for not doing it today. Because something is overdue is not a valid argument to not do it at all—otherwise we would have never given women or indigenous Australians the vote.

In 2007 I gave a lengthy interview on the *Four Corners* program, arguing for our Parliaments to act to cap big-money politics and to place caps on campaign spending and donations. Ideally, the Commonwealth would lead in this area and the States and Territories would follow. In an ideal world we would have a harmonisation of Australian laws to cover the field when it comes to the regulation of campaign finance. Of course, that would avoid loopholes. Indeed, my party took a policy to the 2007 Federal election to act on electoral funding reform, and in December 2008 the Rudd Labor Government released a green paper—a discussion paper—on options for election finance reform.

Unfortunately, the Commonwealth Government has not yet acted with a legislative package to reform campaign financing at the Federal level, so New South Wales will lead the way. As I said, I accept that in an ideal world the Commonwealth would lead the way and the States and Territories would follow. But the Commonwealth Government has not got there yet and our Government has said consistently that, while we would prefer that the Commonwealth take the lead, if necessary New South Wales will go it alone, such is our commitment to cleaning up the laws in this area and ensuring that proper safeguards are in place in this State to end the campaign arms race. I predict that within the next few years every jurisdiction in this country will follow after New South Wales leads the way tonight. I predict that no government, once this bill is passed into law, will repeal such laws. No government will be able to get away with repealing laws that place caps on campaign donations and expenditure.

I will talk briefly about the principles that guided the development of the bill. The New South Wales Electoral Commissioner, Colin Barry, made a submission to the Joint Standing Committee on Electoral Matters inquiry. He proposed in his submission that four principles guide the Legislature when looking at reform in this area. The first principle relates to protecting the integrity of representative government. By that, the commissioner meant—in his words—"that elected members of Parliament and local government councillors are accountable to the citizens whom they represent" and "are expected to act in the interests of those citizens." The

second principle the Electoral Commissioner raised was promoting fairness in politics. The reference by Colin Barry to fairness in this context was intended in the sense that political freedom should be made formally available to all citizens, who should all have a genuine chance to make a difference. The third principle enunciated by the Electoral Commissioner was that public funding should support parties to perform their functions. In particular, Mr Barry noted:

... parties are central to our system of representative democracy, and in moving forward they will remain as such well into the future. Consequently, the political finance framework that the Committee recommends should acknowledge the key role played by the political parties. The parties need to be appropriately funded in order for them to fulfil their functions as a party.

The fourth and final principle that the Electoral Commissioner advocated was respect for political freedoms. I contend that in drafting this legislation the Government has followed the four principles raised by the New South Wales Electoral Commissioner, Colin Barry, in his submission to the Joint Standing Committee on Electoral Matters inquiry.

The truth is that the Opposition has dealt itself out of playing a constructive role in the development of this reform package. The Premier said that she sought bipartisan support for the bill from across the political parties. The great objections that Opposition members raise here, with their feigned indignation, of banning donations from corporations were never mentioned by their leader when he met with the Premier—not once. Opposition members now say, with their hands on their hearts, that this is a great outrage and corporations should not be able to donate. We had stunts such as the legal advice from Arthur Moses, SC. I came across Arthur Moses in the Industrial Commission 10 years ago—a third-rate industrial barrister for employers and a Liberal Party hack. He has never practised in the area of constitutional law. Yet for the sake of a political stunt, the press secretary of the Leader of the Opposition obtains so-called advice from Arthur Moses, barrister for various employers in industrial matters, and passes it off to the *Sydney Morning Herald* as some learned and definitive advice on matters to do with the Constitution. I happen to have a memorandum of advice from a fair dinkum constitutional expert, Bruce McClintock, QC, in which he states:

I have to say that Mr Moses' advice, other than the last paragraph, partakes more of political polemic than legal analysis.

The Hon. Catherine Cusack: Point of order: I request that the member table the full document that he is quoting from.

The Hon. LUKE FOLEY: I am happy to do so.

The PRESIDENT: Order! That is not a point of order. The Hon. Luke Foley may continue.

The Hon. LUKE FOLEY: The advice I have from Bruce McClintock goes to the heart of case law regarding the regulation of campaign expenditure and donations in this country. It looks at the relevant case law and draws conclusions, unlike the political polemic from Arthur Moses. Mr McClintock states:

It is obvious that Mr Moses is not giving an opinion that the relevant provisions of the Election Funding and Disclosures Amendment Bill will be unconstitutional if enacted despite the misleading headline. This can be seen from the extremely tentative terms in which he expresses his opinion.

He goes on to quote Arthur Moses' opinion—

... it may be open to be argued, although it is not by any means clear, that such a law is contrary to section 5 of the NSW Constitution ...

There we have the advice from Arthur Moses—who is not an expert in the area of constitutional law—that the Liberal Party seeks to rely on to make a case that this bill is somehow unconstitutional. His statement that "it may be open to be argued, although it is not by any means clear, that such a law is contrary to section 5 of the NSW Constitution" is hardly definitive or unequivocal advice. Bruce McClintock, an expert in this field, states:

I do not believe that the conclusion is arguable and an assertion that this legislation is constitutionally invalid as a result of section 5 is wrong in view of the authorities in this area, including specifically High Court authority.

There has been a range of matters before the High Court over the years that deal with issues such as freedom of political expression in this country. *Australian Capital Television Pty Ltd v The Commonwealth* in 1992 is a leading authority on this matter. Australian Capital Television stands for the proposition that while an absolute

ban on political communication is constitutionally invalid, nevertheless some restriction may survive constitutional scrutiny. I will quote what Sir Anthony Mason said in his judgement in the High Court in the Australian Capital Television Pty Ltd case. In part, he stated:

... it may well be that some restrictions on the broadcasting of political advertisements and messages could be justified, notwithstanding that the impact of the restrictions would be to impair freedom of communication to some extent. In other words, a comparison or balancing of the public interest in freedom of communication and the public interest in the integrity of the political process might well justify some burdens on freedom of communication.

Bruce McClintock, in providing his advice, looks at the test that the learned justices of the High Court set out in not only the Australian Capital Television Pty Ltd case but also the Lange and the Coleman cases. He advises that there are four questions posed by the High Court: first, does the law burden freedom of political communication; secondly, does the law serve a legitimate end; thirdly, is the law reasonably appropriate and adapted to serving a legitimate end; and, fourthly, is the manner in which the law serves that legitimate end compatible with the system of government prescribed by the Commonwealth Constitution? Bruce McClintock continued:

Turning to the cap on third party expenditures, clearly enough the answer to the first question is "yes". Obviously a limit on the amount that an individual can spend on election funding burdens freedom of political communication. Equally however, I have no doubt that the answer to the second, third and fourth question is "yes" and that therefore the provisions are valid. Specifically, it is obvious that election funding caps serve legitimate end. They are an essential concomitant of limits on the expenditures of candidates which could not work in their absence. Such limits themselves are legitimate as a method of resisting corruption and preventing individual candidates from "buying" elections.

He concluded:

Thus, my view is that the legislation, when enacted, will be valid. I should say that I have no doubt that one thing would be invalid, that is, a ban by the State Parliament on trade unions engaging in election funding would unquestionably be void under the Constitution.

That is fair dinkum advice from a constitutional expert, a silk, not bogus advice from a Liberal Party hack with no expertise in the area of constitutional law. The truth is that the Liberal Party has been desperately searching for any reason to oppose reform in this area because it is addicted to donations and Liberal Party members are looking for any excuse to oppose this legislation. The Liberal Party of Australia New South Wales division's own disclosures to the New South Wales Election Funding Authority reveal donations of \$7.6 million in the 2009-10 financial year.

That is the greatest argument upon which to advise the House why the Liberal Party is fighting this legislation tooth and nail. The Liberal Party is doing well at the moment. Many businesses back favourites. They are backing the Liberal Party. The Liberal Party has the bag out; it is hoovering in money left, right and centre, and it wants to keep going. The Liberal Party is dressing up opposition to this legislation to mask what the case really is: that it is on a fundraising roll at the moment. The money is coming in left, right and centre, and the Liberal Party has absolutely no interest in this Parliament passing laws that will restrict its ability to keep raking in money. That is the fact.

If the Liberal Party is so opposed to corporate donations, why does it continue to take them? Self-regulation is possible. The Labor Party has done it with tobacco donations. Self-regulation is always possible. If it is an issue of such high political principle that Liberal Party members say corporate donations should not be allowed, why does the party continue to take them? The Greens self-regulate in this area: they do not take corporate donations. The Liberal Party, despite all its protestations to the contrary, keeps raking in corporate donations and has absolutely zero intention of breaking away from that practice.

I want to address a couple of aspects of the bill. First, spending limits must preserve freedom of political expression and robust campaigning, while also calling a halt to the escalation of electronic political advertising. I will quote from Professor Anne Twomey. Given that the Hon. Don Harwin requested that, I am happy to oblige. Professor Anne Twomey delivered a very considered report to the Government titled "The Reform of Political Donations, Expenditure and Funding". In that report Professor Anne Twomey wrote:

Expenditure limits applied to political parties and candidates have a direct effect on their capacity to communicate with the electorate. Accordingly, any such law must be very carefully balanced in order to be constitutionally valid. The most contentious area is the imposition of expenditure limits on third parties. If no such limits are imposed on third parties, the effectiveness of limits imposed on political parties or candidates will be undermined by third party electoral campaigning. If limits are imposed on third parties, there is a high risk of constitutional invalidity ... Expenditure limits may also need to be considered as part of an entire scheme, involving limits on donations and funding.

That is exactly what this bill seeks to do. It is, as Professor Twomey advocated for, an entire scheme that seeks to do three things: cap donations, cap spending, and increase public funding. I note that the Liberal Party advocates—and I suspect it will move amendments to this effect—seeking to exclude political donations from all but individuals. That proposition is superficially seductive. But let us consider what it really means. It would leave the highest net wealth individuals in this society free to contribute; it would leave "Twiggy" Forrest free to campaign against a mining tax and donate to the Liberal Party, which opposes the mining tax; and it would leave the flock of millionaires whom Malcolm Turnbull stacked into the Liberal Party branches in Wentworth free to donate. But, at the same time, it would deny those corporations and other entities, such as voluntary associations, the right to participate in the democratic process.

Let us look at some of the voluntary associations that would be excluded from donating to election campaigns if the amendment by Liberal and Nationals members were to pass into law. Not only would employee associations not be able to donate but not-for-profit organisations that are based on citizens banding together to make their voice heard—including disability advocates, carers advocates and conservation groups—would also not be able to donate. Yet, the highest net wealth individuals in our country would be able to donate. Under the Liberal Party's proposition "Twiggy" Forrest could still donate, to try to knock over a mining tax. But a not-for-profit conservation group could not give a brass razoo to support candidates who want to protect the environment or save our wild places. That is the real effect of what the Liberal Party advocates for.

The Liberal Party's millionaire mates, the highest net wealth individuals in the country, would be free to contribute, but not-for-profit voluntary associations—that are excluded from the political debate in this country—would not be allowed to donate to independent candidates, groups of candidates or parties that support their views. The Opposition amendment would restrict political expression to the individuals with the fattest wallets. It would leave the door wide open to the Liberal Party's wealthiest supporters but would close the door to workers, their representatives, and voluntary associations. That is the policy advocated for by Liberal Party members of this place.

Another amendment Opposition members have argued for is that affiliated third party donations be included in the spending cap of the political parties to which they are affiliated. The effect of that amendment, if it were carried, would be that employer associations would be entitled to spend up to the cap, that is, up to \$1.05 million. Each and every one of them would be entitled to spend up to that cap. Employer associations who advocate on industrial relations laws, for example, would have that right, but employee associations would not. Employee associations would be excluded. Employee associations that commit the heinous crime of affiliating with the Labor Party would be barred by law from spending under the third party system. Employer associations would be in; employee associations would be out. Does that not tell members about the true motivation of the Liberal Party—the party that seeks to deny workers and their representatives the right to freedom of expression and to campaign for their rights, but seeks to give untrammelled rights to advocates for employers and to the highest net wealth individuals in this country? That is the real motivation of the Opposition when you strip away the feigned indignation of Coalition members as they speak against this bill.

The mantra—just like Tony Abbott's so-called great new tax on everything—has become "22 unions will spend \$23 million". That is a blatant lie and those opposite know it. Unions spend nothing like that. I ask any member opposite, minded to go through the records of the 22 unions affiliated with the Australian Labor Party in New South Wales, to name one union that has ever spent anything like \$1.05 million at any election in the history of this State. If there were such a union we would hear about it ad infinitum. It would be played over and over again on the tape: 22 unions giving \$23 million, but the Opposition cannot find one giving \$1.05 million. There is not one union, and there never has been one. It is a piece of rhetoric to cover up the fact that the Opposition does not want reform in this area. Donations are coming in left, right and centre, and the Opposition wants to keep it that way.

I turn to the issue of the third party spending cap. The Joint Standing Committee on Electoral Matters recommended that the third party spending cap be equal to the spending cap for parties contesting only the Legislative Council election. A sound reason exists for that: if the spending cap is lower than for a party contesting only the Legislative Council, then an obvious loophole exists and the third party will form a group to run for the Legislative Council to obtain the benefit of a higher spending cap. That is the proper justification for the third party spending cap being where it is. The third party spending cap is equal to the cap for parties contesting only a Legislative Council election. For example, in the past the Shooters and Fishers Party has contested only the Legislative Council election. Members viewing this bill with an open mind will accept that it follows the recommendation of the Joint Standing Committee on Electoral Matters on the third party spending cap.

The next question to be answered is: Why the amount of \$1.05 million? That is a fair question. The Hon. Robert Brown would have a legitimate interest in what the spending cap for a party contesting only a Legislative Council election ought to be. The amount of \$1.05 million is based on 21 vacancies at the Legislative Council election held every four years, on the basis of the fair and reasonable expenditure of \$50,000—each seat has around 50,000 voters. The mathematics is not a State secret. The amount of \$1.05 million is arrived at by calculating 21 vacancies multiplied by an expenditure of \$50,000—or \$1 for each elector in the seat. That is a sensible method of calculating the cap for parties that contest only a Legislative Council election. It is not a rort. It is sensible. What flows from that is the third party cap, which there is much indignation about. Logic dictates that the third party cap must be equal to and not less than the cap for parties contesting only the Legislative Council election. If the cap for third parties is less, then they will simply form a group—which is not hard to do—to get on a ballot paper and spend up to the limit getting their point of view across.

I turn now to donation limits. Political campaign donations, which are a valuable part of our democracy, provide an opportunity for people to participate in the political process and to express support for particular policies, candidates, groups or parties. Limiting donations, as this bill seeks to do, will reduce the influence of any one donor and will level the playing field between those with access to large funds and those without. A system of donations with no caps or limits, where those with the biggest wallets can donate as they see fit, has been debated in the community in recent years. That would leave our democracy open to predatory outside interests of those who seek to spend big in order to achieve favourable outcomes for themselves or their concerns. Donation limits are long overdue. Despite the heated differences amongst the honourable members of this House, I think a consensus is emerging that donation limits in some way, shape or form are a necessary part of reform in this area.

As I said earlier, if this legislation is passed I do not think that any future government will seek to repeal any law that places limits on donations. We know there will be ongoing reform in this area. I suspect that when the Commonwealth Government finally gets around to a reform package that it will result in this State taking a fresh look at its laws in this area. Reform is long overdue and the Commonwealth Government is yet to deliver on its commitment of comprehensive reform in this area. But it will come, and I hope that will be in this term of the Commonwealth Parliament. The New South Wales Government believes the time is long overdue. My party has a very proud history of electoral reform. It was the first plank in the 1891 fighting platform of the Labor Electoral League. My party has a long and honourable history of electoral reform in the interests of our democracy. This bill is another honourable reform: For the first time in any Australian jurisdiction caps will be placed on spending and donations, and public funding will be increased. I commend the bill to the House.

Mr DAVID SHOEBRIDGE [8.49 p.m.]: On behalf of the Greens I support the Election Funding and Disclosures Amendment Bill 2010 and give our broad support to the achievements in the bill before the House. Hopefully, the bill will be the first step in a generation of laws that will lead to the ultimate banning of corporate influence and the politics of corporate money in New South Wales. For the first time we will see limits on the amount of money that corporations can provide to political parties in this State. It is clear that a case for lower limits could be made. What is the current limit on donations from corporations to the Liberal Party, the Australian Labor Party or The Nationals? The limit is whatever they like; however much they feel they have to give in order to get the outcome they want from their political party of choice. It is utterly unlimited.

The amount of corporate donations that has been received by both major parties in the past few years is staggering. In the past 48 hours the Liberal-Nationals have suddenly decided that they have a passion for donation reform. In the past 48 hours they have developed a passionate argument and for the first time ever they are putting proposals before the Parliament to reduce the flow of corporate donations. We have not heard one prior speech or seen one prior bill or Act from the Liberal-Nationals about reducing corporate donations. Why has the Liberal Party not wanted to limit corporate donations before now? I have a small list of corporate donations in front of me. It is not a list of the top 10 or the top 20; it is a sample of the corporate money that has been going to the Liberal Party over the past four financial years.

In the 2007-08 financial year, Tech Dragon Limited donated \$199,982. That is the amount this corporation was able to donate to the Liberal Party under existing laws. If this legislation is passed, the corporation will be able to donate \$5,000 to the Liberal Party. That means \$194,000 worth of influence that it will not be able to exercise. In the 2007-08 financial year, Chun Yip Trading Company donated \$199,980. Again, if this bill is passed, that \$199,000 worth of influence that this company has over the Liberal Party will reduce to just \$5,000. The reforming zeal we are seeing from the Liberal Party has come so late because to date it has been benefiting by so much. In the 2007-08 financial year Paul Ramsay Holdings Pty Ltd gave the Liberal

Party \$100,000. In the 2009 financial year Stuka Pty Ltd gave the Liberal Party \$75,000. This bill, if successful, will reduce the capacity of Stuka Pty Ltd to influence outcomes from political parties. Rather than having \$75,000 worth of influence, it will have only \$5,000 worth of influence.

The reforming zeal of the Liberal Party did not stop it from taking \$62,500 from M. J. Somers Consulting Pty Ltd in 2007-08 and \$62,500 from CBD Energy Limited. The amount of \$62,500 seems to be a favourite donation from corporate Australia to the Liberal Party because that amount also came from Hunter Land Pty Ltd in 2007-08. Buildev Development Nsw (MR) Pty Ltd gave \$62,500 to the Liberal Party in 2007-08. King Island Marine Research Pty Ltd donated \$60,000 in 2007-08. Earlier I heard reference to the Rum Corps being bandied about. The modern Rum Corps is the Australian Hotels Association, one of the more corrupting industries in New South Wales. The Rum Corps gave the Liberal Party \$55,000 in the 2009 financial year. From Rico Investments Pty Ltd came another \$55,000 in the 2007-08 financial year.

Where was the reforming zeal when these buckets of corporate money were coming to the Coalition? It was not there. Its zeal for reform came when it realised that by politicking it can destroy the chance of actual reform. It thinks that it can wedge the politics of New South Wales and destroy the reforms that would stop the river of corporate donations I just referred to. Its zeal for reform is not based on principle or beliefs. Its principles speak in dollars.

The Hon. Charlie Lynn: It doesn't speak in 30 pieces of silver.

Mr DAVID SHOEBRIDGE: I acknowledge the interjection of the Hon. Charlie Lynn. The Australian Hotels Association donated \$55,000. That is 55,000 pieces of silver. Give it back. The challenge I make to the Coalition is that if it is now so offended by the concept of corporate donations, as it says it is—and good luck to the Coalition because so am I—it can give it all back. I can make a commitment on behalf of the New South Wales Greens to give back corporate donations—we will give back every penny—because we have not received a single dollar from this river of corporate donations. The beneficiaries of corporate wealth and munificence have been the major parties. Up to now the Labor Party has been little better in terms of its reputation for taking corporate donations.

The suggestion has been made that by putting a cap on the amount of money that third parties can spend that it is somehow a gift to the unions. Let me be clear about this: As of today, before this bill is passed, what is the limit that unions can spend on any issue that is dear to them in an election campaign? There is no cap. It is totally uncapped. There is no restriction of \$1 million or \$2 million. They can donate whatever they choose. It is utterly unlimited. The Coalition and the Shooters and Fishers Party have raised a disingenuous argument that by putting a cap on third party campaigning expenses, for the first time ever, is somehow pandering to special interests. How could it possibly be a valid argument that capping the amount for the first time ever that unions can spend on campaigning expenses is pandering to the unions? Not only is this for the first time ever a cap on the amount that unions can spend, it is also for the first time ever a cap on the amount that corporations or any entity can spend in the course of attempting to influence the people of New South Wales in an election outcome.

The Greens are on record as strongly supporting a ban on corporate donations. If there were a genuine belief that as a result of the passage of this bill an amendment to ban corporate donations would survive the lower House and would not lead to the collapse of this donations reform package, it would get support. But such an amendment would not get support and the Opposition knows it. The Opposition is putting up this amendment as the straw man to try to destroy reform and to sink this package so that the river of corporate donations that I spoke of earlier can continue to flow to them coming up to the March election.

The Greens will put forward a series of amendments—and Dr John Kaye will speak to those—which will advance this bill further. I look forward to the debate on those amendments in Committee and to the substantial additional achievement that will be obtained by other proposed amendments. Is this a perfect package? No. Could it be tougher? Yes. Could we ban all corporate donations in a perfect world? Yes. But we do not live in a perfect world, and my observations of this Chamber are that it often produces imperfect results.

I find it rather strange that the criticism often levelled at the Greens is that we are so doggedly stuck on absolute principle that we are willing to sabotage a step forward—that we are willing to sabotage genuine reform. If I thought this legislation was nothing other than a paper package that produced no genuine reform, I would be happy to vote against it on principle. But this package will produce real reforms; it is a very substantial step forward. What a relief it will be to the people of New South Wales to find that corporate

influence will no longer stretch to the \$199,980 that Chun Yip Trading Company has over the Liberal Party today—that it will be limited to only \$5,000. What a relief that will be to the people of New South Wales if this bill is passed.

As I said earlier, this legislation is the first step in what will hopefully be a continuing process of donations reform over the next generation and following generations. Money has a habit of finding a path around obstacles to obtain influence, and I imagine that corporate Australia will be looking at ways of subverting and moving around the limitations that have been put in this bill. Corporations will have their creative corporate lawyers looking at strategies to avoid the restrictions, and this Parliament will have to be willing to continually review the law and to continually improve and amend it to ensure that the loopholes that will be hunted by corporate Australia will be closed over time. If this bill passes and it becomes law and the following day the Coalition thought that it could improve upon it and it puts forward amendments to improve it—having supported this substantial reform—the Coalition would get the strong support of the Greens.

The real test will be when the Coalition has the numbers in the lower House. When Coalition members occupy the seats of government and are in receipt of substantial donations, will their reforming zeal stay? Will all the crocodile tears that we have seen tonight about corporate donations have any substance? If they do, the Coalition will have willing partners in the Greens to further limit the influence of corporate Australia and further limit the influence of money politics here in New South Wales. We look forward to moving the law forward over the coming years.

Dr JOHN KAYE [9.04 p.m.]: I speak on the Election Funding and Disclosures Amendment Bill 2010 and echo the words of my colleague Mr Shoebridge, who very eloquently presented the case for supporting this legislation and using it as a base to stop the rivers of cash that have flowed into New South Wales politics. Let us be clear: Election Funding Authority data shows that since 1999 more than \$30 million from the liquor industry, from the clubs, hotels, from developers, tobacco companies, pharmaceutical companies, and the private health and gaming industries has poured into the coffers of the Liberal Party, The Nationals and the Labor Party. Those industries and groups have given more than \$30 million to those political parties not for some altruistic reason, and not because they were perceived as charities, but specifically with the expectation of an outcome.

If one has a good look around New South Wales, one can see that that outcome is writ large. It is writ large in gaming machines, in alcohol outlets, in developments, in tobacco consumption and in the private health industry. It is a \$30 million distortion of New South Wales politics and it has undermined the best interests of the people of New South Wales. That \$30 million has simply showed that this is a State for sale to the highest bidder. The consequences have been appalling. Not only have we seen appalling decisions being made; we have also seen individual citizens being alienated from the political process and from democracy.

For the past one and a half decades the Greens have been saying very loudly that it is time to bring the rivers of cash to an end. A former member of this House, Lee Rhiannon, and Dr Norman Thomson created the Greens' Democracy4Sale website, which was one of the first steps towards exposing what has been going on in New South Wales. Citizens could go to the website, see the amounts of money that were going to the chief political parties and ask where the money was going and what it was doing. Since 1999 those key industries—alcohol, clubs, hotels, developers, property, tobacco, pharmaceutical, health and gaming—donated a huge amount of money: \$17.3 million to the Labor Party and \$12.8 million to the Coalition.

Throughout that period Labor was on the ascendency. But Labor is no longer on the ascendency—I hope that does not come as too much of a blow to its members. The Coalition is on the ascendency now and it is about to receive rivers of cash. It is the Coalition parties that are squealing loudest and most vociferously because they are about to be shut out from the money that they thought they were going to get and that they thought was rightfully theirs. It is no wonder that there are more gaming machines per head of population in New South Wales than in any other State and most other jurisdictions around the world. It is no wonder that there has been a complete failure to deal with the alcohol industry, with even schedule 4 of the Licensed Venues Act being continuously undermined by political decisions. It is no wonder that Barry O'Farrell is now the favourite of the clubs and pubs. The most recent edition of *Club Life* displays a beautiful photograph of Barry O'Farrell and Andrew Stoner. They understand clubs and the clubs understand them. The rivers of cash will flow to them and in return those clubs will get more gaming machines under an O'Farrell government. That means more people addicted to gaming so that the Coalition can get more cash. That is what this is all about.

Let us be absolutely clear: This bill was not borne out of perfection. It was not written with a perfectly pure motive; nor is it a perfect bill. This bill is flawed in many ways. Despite what has been said by the Leader

of the Opposition, the Greens do not claim that this is a perfect bill. We recognise that there are problems with it but we ask ourselves these simple questions: Will New South Wales be better off as a result of the passage of legislation or will it not? Will the rivers of cash be staunched? Will democracy be better off? Will democracy be more diverse, more dynamic and more participatory? Will it create a platform for future reforms on donations?

It must be understood that we will not get it right with this first step. Even if this were a superior bill, we would still need to revisit it next year, the year after and so on forever. We are trying to hold back the flood of corporate capital into political parties. Whatever legislation we come up with tonight will be probed; the barriers that we create to stem that flow of cash will be probed and prodded by those who seek to undermine the health of our democracy. They will look for loopholes and weaknesses. This not a task that can be achieved overnight; we will need to revisit it. The pertinent question is whether this legislation is a step forward and whether it builds a platform for future reform.

The proposed legislation is not perfect. It still allows corporate donations, and that must be addressed. It also fails to regulate third parties in a meaningful way and it fails to restrict candidate and party spending in a way that will drive the cash out of politics. However, it does achieve some very important outcomes. For the first time in New South Wales we will have a limit on campaign donations of \$2,000 to a candidate and \$5,000 to a political party. That is a significant step forward when one considers the corporate donations that have flowed into the coffers of all three major political parties, and it is clear that this legislation will have a substantial impact on that flow. It is therefore hardly surprising that the Coalition is in a state of high blow-back and that it is saying appalling and dishonest things about the Greens. It is doing everything it can to undermine this legislation and to stop its passage. Opposition members know there are corporations that want to give them far more than \$5,000. The Greens want to ban all corporate donations. That has been our position from day one; it remains our position, and it will always be our position.

The Greens also believe that a limit of \$2,000 on donations from individuals is too high and that \$200 would be more appropriate. For the first time, this legislation imposes limits on how much can be spent by political parties. It is the first attempt to put an end to the arms race between political parties that resulted in appalling election campaigns in 2003 and 2007, when both major political parties spent millions of dollars on advertising that conveyed no information. They were a complete waste of money and represented the alienation and corruption of democracy.

The campaign expenditure cap of \$9.3 million is much too high, as is the \$100,000 cap on candidate expenditure. Those caps should be reduced to, perhaps, \$4.5 million or less for parties and \$50,000 for individual candidates, but at least the legislation imposes some caps. For the first time we are moving from unregulated expenditure to capped expenditure. Members can scream and shout about this legislation, but it does impose caps. Perhaps the caps should be set by someone else or they should be lower, but we now have a base from which to work.

This legislation also creates a public funding model that allows parties to begin to reduce their addiction to corporate cash. It is not a perfect public funding model, but it is certainly better than the model the Premier initially put on the table. It is fairer and it will allow smaller parties to survive and thrive. I was fascinated to hear the misinterpretations by Robert Brown and Robert Borsak of what I said at the meeting to which they referred. Robert Brown's interpretation of what I said was totally incorrect; he put his spin on it. However, that is not the point we are debating.

This funding model ensures that new and emerging parties and small political parties have an opportunity to thrive and survive. That is important. I believe that the Greens have a good idea of what is right and what is wrong. However, I do not believe that we have a stranglehold on truth; I do not believe that any political party has the final word about what is right and what is wrong and what is best for New South Wales. It is not up to us to determine who should be come into this place; it is for the voters to determine who they want representing what ideas in this Chamber. We should not be making that determination and we certainly should not be locking up politics for the three largest parties, making it just survivable for the Greens and driving out the other small parties.

I have some substantial disagreements with members of the other minor parties represented in this Chamber, but I welcome their presence. It is important that our democracy is diverse and dynamic. If members want to see a democracy that is no longer diverse and dynamic, they should look at a failed democracy in which the big parties have locked the doors against smaller parties and shut out all challengers. The Greens make no

apology for having negotiated with the Labor Government to get a better public funding model that will secure a democratic future for New South Wales that encourages new ideas and allows voters to test them and to reject or accept them.

This legislation also imposes some limits on third parties. Those limits are much too high, we accept that, but reforming campaign donations is a very complex issue. I know that the Opposition Whip would accept the argument that achieving regulation of third parties requires a fine balance between two competing objectives. The first is to close loopholes to prevent political parties outsourcing advertising to dodgy third parties. The United States has a group called the Swift Boat Veterans for the Truth—which is hard to say and even harder to believe. We know that the emergence of groups like that is a bad thing and we do not want it to happen here. On the other hand, the worst thing we could do would be to stop the democratic formation of organisations that genuinely represent ideas and to stifle their voice during an election campaign. It is a fundamental right of all citizens of New South Wales, in fact of the citizens of any democracy, to get together and to express a collective point of view. The Opposition Whip said that the most terrible thing about this legislation is that it will encourage third party activity.

The Hon. Don Harwin: I did not say that.

Dr JOHN KAYE: I retract that statement. That is what I thought I heard the member say. Perhaps it was Trevor Khan. I should not foist Trevor Khan's sins on the Opposition Whip; that would be unfair. That this legislation encourages third party activity is not a negative outcome. It is important that we have a democracy with many voices. I must admit that I deeply fear some third parties, but we must have faith in our democracy that other third parties will counter them and make their voices heard.

The passage of this legislation also provides us with the opportunity to ban donations from the tobacco industry, which kills 6,000 people and hospitalises 42,000 people each year. The industry costs this State \$6 billion to \$8 billion a year in social and health costs. It thrives on the pain of people who are in the clutches of a drug. Driving that industry out of the political domain is very important. The Greens will have much more to say about that industry during the Committee stage.

The acid test is whether we will be better off or worse off if this legislation is passed. The Greens—a party that is committed to a strong democracy and driving money out of politics—believe that this legislation is a step forward. It is not a perfect step, but it is a step in the right direction. We look forward to taking the next step with whoever wins the election next March. We have heard many great things from the Opposition in recent times. Mr O'Farrell has said that he would prefer it if only voters were allowed to make donations to political parties—there should be no donations from unions or corporations. That is terrific, bring it on. We will work with the Coalition to get that through.

The Hon. Don Harwin: We are bringing in on tonight.

Dr JOHN KAYE: You are not bringing it on tonight. You are bringing on amendments that will abort this legislation before it has had a chance to make it through. I will have more to say on that in a moment. We are willing to work with whoever is next in government to fix these problems. We will put our own models on the table. We will continue to campaign for an end to corporate donations to political parties. We will continue to campaign for regulations on third parties that respect democracy but also close the loopholes. We will continue to campaign for restrictions on expenditure that allow people back into politics and to make them decision makers, rather than those from the big money end of town. Public debate on this legislation has been marked by a lot of "Do as I say, not as I do". Mr O'Farrell has been out there putting himself forward as the new, pure mouthpiece for ending donations from corporations.

The Hon. Don Harwin: He has been saying it for four years.

Dr JOHN KAYE: That makes my point even stronger. But he is carrying \$12.7 million in his political coffers from corporate donations. If he were serious about this, he would join with the Greens and reject corporate donations. He would reject donations from unions, if they were of a mind to give donations to him, and he would reject donations from corporations, as Greens New South Wales have done and as we will continue to do. We do not take money from corporations. Let me say that again because Mr O'Farrell badly misled listeners to the Ray Hadley radio show this morning: Greens New South Wales do not take donations from unions.

A good place to start, if the Coalition wants campaign reform, is with itself. It should show the way. I say to the Coalition that if it is serious about these issues, it should show the way. It should start rejecting those campaign donations, join with us and show that it can be a clean political party. A good place for the Coalition to start would be to reject the money it takes from the tobacco companies—\$607,000 since 2003, which was money it did not need to take, and money that is derived from human misery and the deaths of 6,000 people and the hospitalisation of 42,000 people who are hospitalised each year as a result of smoking tobacco.

Much has been made in this debate, both in this Chamber and outside the Chamber, of the Greens motive. The first allegation that came from Mr O'Farrell and the Coalition was that an alliance has been formed between the Greens and the Labor Party. Let us unpack this. We negotiated with Labor for an outcome that passed our test. If that can be said to be an alliance, then in relation to Tillegra Dam we are in an alliance with the Coalition because we regularly vote with the Coalition on that issue. We welcome that situation and we congratulate the Coalition for its position on that issue, and we particularly congratulate Robyn Parker on taking the Coalition to an anti-Tillegra position. But are we in an alliance with the Coalition? No. We work with the Coalition and we work with Labor. The other night we even voted with all the conservative crossbenchers. This is not about alliances. It is an immature and childish view of politics to say that because one agrees with somebody on a particular issue one is in an alliance with that person. How appalling and how constricting on the future of democracy is it to say that because one agrees with somebody one is in an alliance with that person. There is no alliance here with Labor. If you do not believe me, look at what is going to happen in Balmain, Marrickville, Coogee and the Blue Mountains.

The Hon. Robyn Parker: And Maitland.

Dr JOHN KAYE: I do not know that we are going to win Maitland, but that is another story. The most offensive suggestion is from Mr O'Farrell that this was about 30 pieces of silver. When Mr Brogden used that expression, he was required to retract it. We are not that sensitive; we understand that Mr O'Farrell likes to use colourful language. He is not really concerned about the impact of that language. Let us examine Mr O'Farrell's colourful reference to 30 pieces of silver. Let us start with the idea that this bill will drive corporate money out of the political process. It is a commonly accepted fact—and this is true in Canada, which the Opposition has often quoted as an example—that public funding must be increased if corporate donations are genuinely to be reduced. If we are going to increase public funding, that means all political parties will get more. We rejected the tiered funding model because we saw it as slamming the door on political parties entering the political process and locking up the system for Labor, The Nationals and the Liberals. Maybe the Greens would survive, but certainly the conservative crossbenchers would be shut out and, more importantly, the new and emerging parties that will come behind us to challenge many of us will also be shut out. I hope that we will be challenged because that will be good for democracy.

Is there any truth in Mr O'Farrell's reference to 30 pieces of silver? Who will really gain from the model we negotiated. Yes, the Greens will receive a 103 per cent increase in funding—we will double our funding. We do not resile from that because at the same time that we will get an increase in funding of 103 per cent, Labor will get a 128 per cent increase. So, one of the two parties that negotiated this legislation will get a 103 per cent increase and the other will get a 128 per cent increase. What about the Opposition Whip's party, the Liberal Party? It will get a 200 per cent increase. What about Ms Gardiner's party, The Nationals? They will get a 259 per cent increase. Reverence Nile's Christian Democratic Party will get a 180 per cent increase. The Shooters and Fishers Party will get a 400 per cent increase. So if it is suggested that the Greens negotiated for 30 pieces of silver, then the Labor Party will receive 38 pieces of silver, the Christian Democratic Party will receive 54 pieces of silver, the Liberal Party will receive 60 pieces of silver, The Nationals will receive 78 pieces of silver and the Shooters and Fishers Party will receive 120 pieces of silver.

Let us be absolutely clear: The Greens did not enter into this to feather our own nest. The evidence shows clearly—and I want the Opposition to admit this—that we did not go into this for numbers. If we did, we did better for the Opposition than we did for ourselves. Indeed, we did far better for Labor, the Shooters and Fishers Party and the Christian Democrats than we did for ourselves. The two parties that negotiated over this suffered the worst out of the public funding model. The 30 pieces of silver reference is a libel against the truth. The Opposition will continue to say it and it will continue to damage its credibility by pushing that line.

The third issue is the whisper that this is a preference deal. There is no such thing. Members will have to wait and see, but I assure them here and now that there is no preference deal. Let us be clear what is really happening here; let us get to the bottom of what is going on. We have a coalition of The Nationals and the Liberal Party that has not done so well with campaign donations over the past decade. Over that time it has

received only \$12.8 million in campaign donations while the Government has received \$17.3 million. All of a sudden, as we approach an election that it seems the Coalition will win, and in which the big end of town is more interested in buying the Coalition's influence than that of Labor, the Greens and Labor get together and say "Let us clean up politics." Of course the Opposition squeals because it is missing out on the big bucks. But this is not about the Opposition, Labor or the Greens. This is about the future of democracy. Let us get serious about protecting democracy. Let us not talk about our own patches. I conclude by making some observations about Mr Khan's speech.

The Hon. Michael Veitch: He gave us a lecture.

Dr JOHN KAYE: Yes, he gave us a lecture about morality. He said that he stands up for principle, often to his own detriment, and that the Greens were not standing up for principle because they are not prepared to act to their own detriment. That is a nice set of lawyer words and I congratulate him on his smooth construction. However, like many lawyer words, they happen to be wrong. This is not about doing things in our best interests. It is about doing things in the best interests of New South Wales. Support for the Coalition's amendments would be in the worst interests of New South Wales.

We have a chance to move forward. The Government and the Premier have stated clearly that the Coalition's amendments are unconstitutional and will kill the legislation. When the Coalition has a majority in the lower House—it may happen one day—it will then be in a position to act, but not at the moment. What is relevant is what will pass through the lower House. The Government says that it will kill off the bill in the lower House and not reintroduce it. If this House passes the amendments, we will have killed the bill. Of course we want to vote to end corporate campaign donations so that only individuals eligible to vote can donate. It would feel good to support the Coalition's amendments—we would love to do it—but we would be killing the bill and it would be back to square one. There would be no restrictions on third parties, no restrictions on campaign expenditure and no restrictions on donations.

Mr Khan talked about encouraging third parties, and I spoke about that earlier. I conclude by acknowledging the people who have worked in this area and who have done great things. I acknowledge Damian O'Connor, former Assistant General Secretary of the Australian Labor Party, New South Wales. To my knowledge Mr O'Connor was the first person outside the Greens to stand up and say it was time to staunch the rivers of cash. A number of people from both political parties have made public pronouncements and have taken the debate forward. I acknowledge that four years ago Mr O'Farrell began his belated journey on the road to Damascus. I also acknowledge Carmen Lawrence, Paul Keating and John Faulkner, who in their own way helped us to get to this point. Across the board there are people who want this reform. Let us take the first step tonight. Let us not play the game of destroying the bill by passing nuisance amendments. Let us make this the first step towards cleaning up New South Wales. Let us make this the first step towards ending democracy for sale.

The Hon. JENNIFER GARDINER [9.31 p.m.]: In speaking to the Election Funding and Disclosures Amendment Bill 2010 I reflect upon some of the contributions to the debate. The Hon. Luke Foley claimed that he was a long-term supporter of campaign finance law reform. I remember another Sussex Street operative coming into this place and arguing a similar case for donation reform. That person was the Hon. Eric Roozendaal. In his inaugural speech he said:

My experience tells me the current system is dangerously unsustainable.

He called for a bipartisan approach to reform, and stated:

Unlike some, I do not argue this perspective for political advantage, but rather for the purpose of achieving a fairer political process.

That is the problem with this bill: it does not achieve a fairer political process. Yet the Hon. Eric Roozendaal is a Cabinet Minister who drafted the bill. He is not interested in genuine bipartisanship, and nor is the Government. He and his colleagues are not interested in a fairer political process, which is one reason that the bill is deeply flawed. During his contribution the Hon. Luke Foley quoted Professor Anne Twomey, who advised the Labor Government and the Premier—and Mr Iemma in the past—about debate on campaign law reform. However, the Hon. Luke Foley did not quote what Professor Twomey has said about the bill. This week she said that the High Court would be likely to look unfavourably on a provision that favoured one type of political entity over another. She said:

The more your law treats parties differently, and those differences aren't able to be explained by reason of fairness, the more likely the law will be held to be invalid.

The bill treats one side of politics differently from the other, and its Achilles heel is that it does not respect the principle of fairness. It is lopsided with respect to donations by Labor Party affiliated unions. I wonder why the Hon. Luke Foley did not quote Professor Twomey. His analysis of the Opposition's amendments was utter garbage. While I am on the subject of trade union donations, let us not forget that in the run-up to the recent Federal election the Victorian branch of the Electrical Trades Union donated \$325,000 to the Greens campaign for the House of Representatives seat of Melbourne.

Ms Cate Faehrmann: In Victoria.

The Hon. JENNIFER GARDINER: Yes, Melbourne is in Victoria. Maybe that is part of the story behind the Green's thinking on this bill. In his contribution Mr David Shoebridge said that in the past 48 hours the Liberal Party and The Nationals have developed a passion for reform. That is patently untrue. Mr Shoebridge was elected only recently to this place. He does not know—Lee Rhiannon would be able to tell him—about the work undertaken by Opposition members, some Government members and Ms Rhiannon during two parliamentary inquiries on this issue, one of which was initiated by my colleague the Hon. Don Harwin and the Coalition. A leading and consistent campaigner for law reform across the entire Australian political framework is the Leader of the Opposition, Barry O'Farrell. He campaigned on this issue from the minute he became the leader of the parliamentary Liberal Party and Leader of the Opposition.

In his contribution to the debate Dr John Kaye stated that the bill is not perfect because it still allows corporate donations. In a few minutes the Greens, including Dr Kaye, will have the chance to wipe out corporate donations. Dr Kaye does not have to wait for a different Parliament to do it, he does not have to wait for a different government to do it—one that is genuinely committed to wholesale reforms—and he does not have to wait beyond midnight. He can do it today. This is the real test for the Greens, particularly with the departure of Lee Rhiannon. Will the Greens step up or will they wimp out? I bet they wimp out.

The Hon. Trevor Khan: No ticker.

The Hon. JENNIFER GARDINER: They have no ticker. This is the Greens' greatest test when it comes to their claimed integrity. They moralise in this place: they talk about morals in politics. This is the night that they are put to the sword. Donation reform and disclosure reform have been part of an ongoing campaign led by the Liberal Party and The Nationals. The foreshadowed Coalition amendments to be moved in this place, as in the other House, would limit donations to those made by individual voters—to Australian citizens enrolled to vote in New South Wales elections. This was resolved as The Nationals policy at its annual general conference three years ago. The membership of the party, which makes general policy, resolved that only individuals enrolled to vote should donate to political parties. Therefore, corporations, unions and other third parties would be ineligible to donate to parties and to candidates. The bill shows that Labor is not fair dinkum about this issue while The Nationals and the Liberal Party have been fair dinkum about this reform for a long time.

Anyone who is interested in this subject should consider what has happened in Canada. Two parliamentary inquiries noted that Canadian statutes have been toughened over a period of years to limit political donations to a capped amount of about \$1,000. Since 2006 contributions from corporations, trade unions and associations have been banned altogether. As I have said, that is the policy of the party I represent in this place. The Nationals policy supports a cap on donations, which would be modest, as well as a cap on campaign expenditure.

As you would appreciate, Madam President, there is a desperate need to clean up New South Wales politics—to make a fresh start. But this bill is not the way to do it. Two recent parliamentary inquiries have made recommendations to the Parliament on this issue. The most recent of them was the inquiry of the Joint Standing Committee on Electoral Matters. Mr Nathan Rees, the then Premier, gave the committee its draft terms of reference on 17 November 2009—one year ago next week. In a letter to the committee suggesting amendments to the draft terms of reference, Mr Rees wrote that "the terms of reference make clear that the present inquiry is intended to build upon the earlier work of the Select Committee on Electoral and Political Party Funding", which is the select committee we initiated in this House and which had great multi-party support. Even the Greens supported the committee's recommendations, despite the fact that they were not represented on that committee. Lee Rhiannon went to the media and said, "We support the select committee's recommendations." In his letter to the committee Mr Rees wrote:

In particular, the Select Committee recommended, among other things, that a ban be imposed on all but small political donations by individuals. I have already indicated that the Government supports that approach.

That is what the former Premier said one year ago. Of course, Mr Rees was falling on hard times. He was desperate to clean up the Labor Party because that was the only chance it had of retaining government. In an appalling move and as a precursor to the way this bill has evolved under Mr Rees' successor, Kristina Keneally, Mr Rees used the first meeting of the committee that was called to adopt the terms of reference as the backdrop for a media stunt.

I have served on many parliamentary committees but I have not seen a Premier, a Minister, or anyone else, use a parliamentary committee in such a crass fashion. But Mr Rees was trying desperately to get on the front foot on campaign finance law reform. No Labor Premier, whoever it was, could face the people without getting an election finance reform bill through this Parliament. As my colleague the Hon. Don Harwin recalls, Mr Rees marched through the door with the cameras blazing. It was such a rushed episode that the Labor machine had failed to ensure that its members on the Joint Standing Committee on Electoral Matters knew to be there to support their beloved leader. So the Labor Party, in one of the most ironic moments in the history of this debate, had to rely on the goodwill of the Hon. Don Harwin and me, the Hon. Jennifer Gardiner, to allow Mr Rees to continue his stunt because without us the committee did not have a quorum. The Hon. Luke Foley can say that we on this side are not genuine about reforming these laws, but you cannot get more genuine than that. We stayed there because on our side of politics we believe these laws should be comprehensively reformed. We could have walked out—and Nathan Rees would have looked like even more of a goose that he did a few days later—but we stayed because we believe in reform.

The culture of the New South Wales Labor Government obviously has degenerated over the past 15½ years. Labor's reputation has been trashed, and a lot of the damage flows from Labor's donations-for-decisions culture. One might say that this bill is yet another stunt. One of the most striking things about the bill is that it took the best part of a year to make it to Parliament—and that is not counting the false start made by former Premier Morris Iemma. Nathan Rees started the penultimate part of the reform process in November last year. It did not save him: he was dispatched as Premier and parliamentary leader of the Labor Party shortly thereafter. A couple of weeks after Nathan Rees' media stunt the long suffering New South Wales Electoral Commissioner, Mr Colin Barry, warned at a Joint Standing Committee on Electoral Matters hearing that time was slipping away for such significant changes as envisaged in this bill to be implemented. That was a year ago. It is indicative of the degree of dysfunctionality of the New South Wales Labor Government that it has taken until the last sitting days of the last year in the life of this Parliament for the Government to even get the bill to this place. I must say that I sympathise with the Electoral Commissioner and his staff, who will administer this legislation once it is passed by Parliament.

During the discussion by the Joint Standing Committee on Electoral Matters about the best possible framework for these reforms, many references were made to the fact that a draft exposure bill would appear in advance of the debate on the reforms. That was one reason why Mr Rees wanted the committee to report in March. To save about four weeks, the Joint Standing Committee on Electoral Matters kept to Mr Rees's timetable. We respected that timetable. It is now November. The bill was debated only yesterday and today in the Legislative Assembly, and we are now debating it in the Legislative Council. As we know, no exposure bill appeared, and of course any pretence of bipartisanship regarding the bill has fallen away in recent days.

The nub of the need to reform the electoral laws in this State is exposed by the raw data that show that the Labor Party spent \$16.7 billion on the 2007 State election campaign, which saw the re-election of the Iemma Government. That was the biggest campaign spend in Australian political history. So if the Hon. Eric Roozendaal started his parliamentary life saying that the arms race in campaign spending was dangerously unsustainable, obviously 2007 would have blown him away. The bill, in its present form, would allow the Labor Party to expend \$100,000 per candidate in each of the 93 seats contested—providing Labor can find 93 candidates—or a total of \$18.6 million. That is more than was expended in the 2007 State election campaign. A new record may be set, making a mockery of the Labor Party's claim that the bill will act as a dampener on campaign expenditure.

New South Wales Labor has 22 unions affiliated with it. Under third party expenditure provisions those unions collectively will be able to spend up to \$23 million. That is \$46 million on one side of the election campaign ledger. That is not the "right balance" that the Parliamentary Secretary, on behalf of the Government, spoke about when he introduced the bill in this place. It is a skewed outcome—indeed, it is so skewed that the integrity involved in passing this bill is undermined. This bill delivers no hope that the discredited, dissolving and disgraceful New South Wales Labor Party has seen any light, let alone a light on the hill. The Labor Party still has a long way to go downhill before it can restore any of its reputation. The Joint Standing Committee on

Electoral Matters heard a substantial body of evidence from constitutional law experts. In speaking about the goals of a reformed funding scheme, Professor George Williams emphasised the importance of fair and reasonable measures. He said:

I think constitutionally so long as you have a scheme that you have a sound and robust reason for enacting and that you can demonstrate is fair and reasonable and has caps that are appropriate, then I think they are the sorts of goals you need to get to. For me here the issue again is not so much the constitutional impediment, although there is an issue here you need to address, but just how you design it in a way that actually achieves that goal of fairness without building in, as the prior scheme did, a bit of a loading one way or the other.

The Opposition's problem with the bill is that the goal of fairness is absent, which is a sad state of affairs. There is also a bit of loading one way but not the other. Professor Orr, another constitutional lawyer who addressed the standing committee, said that the State Labor Government had been talking about but not acting on law reform. He told the standing committee that in the absence of consistency with other jurisdictions, New South Wales public funding laws would have to apply to State candidates; nevertheless, reform should not be delayed in the interests of uniformity.

One of the reasons we have waited so long for this bill is because successive New South Wales Labor Premiers have been waiting for the Federal Labor Government to act. Because the Federal Labor Government did not act, the New South Wales State Government did not act. Nothing has happened in Canberra since John Faulkner was transferred from the portfolio of Special Minister of State. Professor Orr also said that there is no reason for New South Wales, or any other jurisdiction, to wait years for the Commonwealth to act. Experimentation is a strength of federalism. Indeed, it was New South Wales that led the way in 1981 with public funding and disclosure laws. Further, even if uniformity were achievable in 2010, it will likely unravel in future years as governments of different hues come to power at different levels and as regulators in different jurisdictions react to different experiences. There is no good reason for the Iemma, Rees and Keneally governments to have been such slowcoaches in introducing this bill.

The Hon. Trevor Khan: No legitimate reason.

The Hon. JENNIFER GARDINER: Yes, no legitimate reason. They probably had their nefarious reasons, which will be highlighted later this evening. Dr Twomey told the Joint Standing Committee on Electoral Matters that consideration needed to be given to "swamping" by third parties. She suggested that third party expenditure caps might be set with reference to the cost of running a modest campaign. The bill ignores that advice; obviously the Government does not always take the advice of Dr Twomey. Dr Joo-Cheong Tham told the standing committee that the third party expenditure caps should recognise the privileged position of candidates and parties by virtue of the fact that they are contestants: the ones competing for public office. He said:

If people do not like a candidate or a party, what can they do? They do not vote for the candidate or party. That same mechanism of accountability does not apply to third party campaigning. That is a crucial aspect to bear in mind.

He is right. Unions are money funnellers to Sussex Street. The unions call the shots and this Labor Government acts. The bill is further evidence of that. The Greens submission to the Joint Standing Committee on Electoral Matters inquiry expressed the view that restricting third party expenditure as part of comprehensive reform would be a "reasonable and legitimate restriction". It stated "this is especially the case if they are done as part of comprehensive reform as suggested in this submission as the relative voice for such third parties will be significantly increased by reason of the lesser spending power of the registered political parties and their associated entities." The Greens support restricting expenditure in election campaigns, but not too much. The Greens are not prepared to come down heavily on this aspect of the bill in relation to the Australian Labor Party affiliated unions.

In the wake of the recent Federal election I was interested to note that the agreement reached between the House of Representatives Independents, who were elected to the Federal Parliament in August, and the Gillard minority Government included a reference to election campaign reforms. But that reference is weak and it was necessary for this Parliament to go ahead without uniform laws, which are expected any time soon. It is a pity that the New South Wales Labor Government has fallen down on the job so badly. The Parliamentary Secretary mentioned in his second reading speech that he opposed the idea of a framework that would allow the drowning out of competitors in the electoral contest. He also said, when commending the bill to the House, that the bill strikes the right balance. The Liberal-Nationals Coalition does not agree. The bill is unbalanced; it is skewed. It allows for swamping of one side of politics by the other. It adds to the stink of all that is rotten in the State of New South Wales.

The Hon. MICHAEL VEITCH (Parliamentary Secretary) [9.55 p.m.], in reply: I thank all members for their contribution to the debate. The Election Funding and Disclosures Amendment Bill 2010 has several objectives. First, the bill reduces the risk or perception that access to government can be purchased or that donors may be in a position to exercise undue influence. In this way the bill will improve confidence in impartial decision-making. Secondly, the reforms provide for a more level playing field for candidates seeking election, as well as for third parties who participate in the political process and who want their voice to be heard. This ensures that all interested parties are able to engage in political debate. Thirdly, the adoption of expenditure caps places a limit on the political "arms race": a race that has driven the demand for political donations, and in which those with the most money can have the loudest voice and simply drown out the voices of all others. Finally, and perhaps most importantly, the reforms will help to give voters a better opportunity to be fully and fairly informed of the policies and perspectives of all political parties, candidates and interested third parties. It protects the right of the people to hear all sides of the political debate and to form their own informed view about any issues.

The bill is not about stifling or limiting political debate: it is the opposite. The aim of these reforms is to make elections a true battle of ideas and policies, rather than simply who has the deepest pockets, the most generous donors and the largest advertising budget. As was discussed at great length in the evidence given before the Joint Standing Committee on Electoral Matters, there is a clear constitutional limit on the ability of the New South Wales Parliament to legislate in this area. Any New South Wales law that interferes with Commonwealth elections or burdens the implied freedom of communication about political matters could be exposed to constitutional challenge. It is of course appropriate in legislating in this area that similar considerations be applied to State political matters. It is also important to realise that the recognition of this freedom of political communication is ultimately about ensuring that government remains both representative and responsible.

The bill has been carefully drafted to target State elections. It has also been developed to satisfy the test set down by the High Court in the Lange case. The Government believes the reforms in the bill are reasonably and appropriately adapted to serving a legitimate end in a manner that is compatible with our system of representative and responsible government. The bill is not only compatible with our system of representative and responsible government, but protecting and enhancing that system is the very end to which the bill is ultimately directed. To that end, the Government is satisfied that the right balance has been struck. Sensible limits have been set for donations to candidates and parties. The expenditure caps that have been adopted are set at a level that allows for an informative and robust campaign to be run, but at the same time puts an upper limit on spending. Third parties are regulated in such a way as to ensure that genuine third party campaigners can exercise their legitimate right to participate in the electoral process, but not circumvent the parties and candidates. Parties and candidates have been compensated for the loss of donations by an expanded public funding regime based on a reducing sliding scale, designed to discourage candidates and parties from spending up to their limit just because they can. New South Wales has taken the important first step. But, as was made clear by the Premier when introducing this bill in the other place, to effect comprehensive and effective regulation of this area the Commonwealth must introduce complementary laws to regulate Federal donations and campaign expenditure.

A number of minor matters have arisen since this bill was introduced in the other place that I want to address. The first matter relates to electoral expenditure before 1 January 2011. Given that the regulated period will commence on 1 January 2011, it has been pointed out that some candidates and parties will have already started incurring electoral expenditure before that date. This expenditure would not be claimable under the proposed scheme. The Government will develop a transitional arrangement whereby consideration will be given to funding electoral expenditure incurred between 1 July 2010 and 1 January 2011, so long as the additional claim does not exceed the applicable expenditure cap for the regulated period. This will be done by regulation.

In relation to the definition of "administrative expenditure" in section 97B, there is no explicit mention that payments to a party's national organisation come within the definition. The Government is of the view that section 97B is broad enough to encompass the legitimate administrative costs of running a political party in New South Wales, including payments to a party's national organisation for legitimate and substantive administrative services. Of course, it would not be possible for a Federal branch of a party to artificially inflate Federal levies to a New South Wales party in order to take advantage of the public funding that will now be available in New South Wales.

Queries have been raised as to what can and cannot be deposited into the State campaign account, as required under section 96. Section 96 (5) details what may be paid into the account and section 96 (6) provides

what may not be paid into the account. It should be noted that these lists are the subject of a regulation-making power. Therefore, it will be possible to add to the list, if necessary. However, the Government amended the bill in the other place to expressly include bequests to a party in section 95 (5) as money that can be deposited into the State campaign account. In conclusion, New South Wales is leading all other Australian jurisdictions in this area. In order for there to be effective regulation and control of this area all other Australian jurisdictions, particularly the Commonwealth, must pass similar complementary laws. I commend the bill to the House.

Question—That this bill be now read a second time—put and resolved in the affirmative.

Motion agreed to.

Bill read a second time.

In Committee

Clause 1 agreed to.

The Hon. DON HARWIN [10.03 p.m.]: I move Opposition amendment No. 1:

No. 1 Page 2. Insert after line 5:

3 Amendment of donation and expenditure caps by Auditor-General

- (1) The Auditor-General may, before 1 January 2011, amend this Act (and the *Election Funding and Disclosures Act 1981*) to make any changes the Auditor-General considers appropriate to the caps prescribed by this Act on political donations and electoral communication expenditure.
- (2) The amendments are to be made by order of the Auditor-General published on the NSW legislation website.
- (3) This section commences on the date of assent to this Act, despite section 2.

Amendment No. 1 inserts after line 5 on page 2 an amendment that deals with the commencement of the bill and substitutes an arrangement to give effect to the depoliticisation of the setting of donation caps and expenditure limits, as I foreshadowed in my earlier remarks. With this amendment, the setting of caps and limits will be vested in the Auditor-General. The Opposition believes that this arrangement establishes transparency and enhances integrity. It is consistent with the policy the Opposition released some time ago when it took the view that donation and expenditure caps should be set by the Auditor-General. I commend Opposition amendment No. 1 to the Committee.

The Hon. MICHAEL VEITCH (Parliamentary Secretary) [10.05 p.m.]: As was said in the other place, determining caps on donations and expenditure is a policy decision for the Parliament. This is a genuine opportunity for real reform. The Government does not want to leave it to someone else. These tactics are typical of the Leader of the Opposition, who moved this same amendment in the other place. Once again we see Mr Barry O'Farrell ask, "Can't someone else do it?" He is always ready to pass the buck to someone else when difficult decisions need to be made or action needs to be taken. Not only is Mr O'Farrell seeking to pass the buck, but in doing so this amendment empowers the Auditor-General to amend the Election Funding and Disclosures Act. That is going too far. A body has been elected by the people of New South Wales to be responsible for making laws: the Parliament. It is Parliament's responsibility to make this policy decision. On a separate note, it is also important that candidates considering contesting the election next March have certainty. This requires that they are aware of their donation and expenditure caps as soon as possible. The Government will not support this amendment.

Dr JOHN KAYE [10.06 p.m.]: The Greens do not support this amendment, in part for the reasons outlined by the Parliamentary Secretary, the Hon. Michael Veitch. In addition, we have grave concerns about the further politicisation of the Auditor-General. On a number of occasions we have talked about the importance of independent auditing and the independence of the Auditor-General. Dragging the Auditor-General into the heart of the political process by having him or her set the outcome is, in our opinion, a dangerous step in the removal of the independence of the Auditor-General. For that reason and for the reasons outlined by the Parliamentary Secretary, the Greens will not support this amendment.

The Hon. DON HARWIN [10.07 p.m.]: I hear the argument given by the Government and the Greens. It is a predictable one and we profoundly and respectfully disagree. Nevertheless, I commend amendment No. 1 to the Committee.

Reverend the Hon. FRED NILE [10.07 p.m.]: The Christian Democratic Party supports this amendment, which gives the Auditor-General the power to make any changes he considers appropriate. If he takes the same view as Dr John Kaye and the Parliamentary Secretary, he will consider that the changes are not appropriate and not do anything. This amendment leaves the option open to the Auditor-General. It does not force him to interfere in the legislation. He may make any changes that he considers appropriate. I have confidence in his judgement.

Mr DAVID SHOEBRIDGE [10.08 p.m.]: In the course of the joint standing committee's discussion on electoral reform, the suggestion was made that the Auditor-General take some part in the oversight of electoral funding. I omitted earlier to acknowledge the efforts of the Hon. Jennifer Gardiner, who was a member of the committee, in the committee inquiry. I do so now. The Auditor-General, in submissions to the committee, made it clear that he did not want any part to play in the oversight of electoral matters. He thought it conflicted with the duties of the Auditor-General, which are essentially non-political. That is sufficient reason of itself not to support this amendment.

The Hon. DON HARWIN [10.09 p.m.]: Reverend the Hon. Fred Nile made an excellent point, which I should have made and articulated more clearly myself, but I commend him for it. I have to take issue with what Mr David Shoebridge has just said. It is indeed true that Mr Achterstraat has that view as one individual Auditor-General. But he is the only person to hold that office, that I am aware of, who has that view. It is certainly not the view of the Commonwealth Auditor-General and it is certainly not the view of the Auditor-General of Ontario in relation to being vested with those sorts of roles; for example, in government advertising.

In my view it is not for Mr Achterstraat as an individual to tell the Parliament what the Parliament believes the role of the Auditor-General is. It is for the Parliament to decide what the role of the Auditor-General is. If Mr Shoebridge is being fair dinkum about this debate he should concede that it is the view of just one individual; it is not necessarily the view of a large number of Auditor-Generals who undertake—

Dr John Kaye: Auditors-General.

The Hon. DON HARWIN: Thank you. I acknowledge the interjection of Dr John Kaye.

Dr John Kaye: I am thrilled to have actually done that for you for once.

The Hon. DON HARWIN: Thank you. I think I have done it for you a couple of times. As I said, a number of Auditors-General take the view that it is quite okay for them to exercise a sort of independent oversight role. I believe the amendment should be supported.

Mr DAVID SHOEBRIDGE [10.11 p.m.]: There is one important point about the Auditor-General having an opinion as the Auditor-General: he is the Auditor General who the Opposition is intending to give these powers to. That person does not believe it is appropriate to exercise that power. The Opposition is not giving it to the Auditor-General of Ontario—at least that was not how I read the amendment. Furthermore, the committee did not challenge the Auditor-General on that opinion. Indeed, as I recall the recommendations that came out of the committee, it was not one of the recommendations of the committee to put the Auditor-General in a position of conflict.

The Hon. DON HARWIN [10.12 p.m.]: Putting it as kindly as I possibly can, first, the Hon. David Shoebridge was not a member of the committee and, secondly, he was not there and I assume he has not read the report and its minutes, which show quite clearly that there was an attempt to amend the report. Unfortunately, the Opposition was not successful in persuading Government members to accept that view; we did not have the numbers. But to say it was unchallenged by the committee is simply not true.

Dr JOHN KAYE [10.13 p.m.]: In relation to Reverend the Hon. Fred Nile's point that the Auditor-General may choose not to exercise his powers under new section 3, by not exercising his power the Auditor-General is making a decision which is in and of itself of a political nature, because he is saying he will not adjust the thresholds and caps. That therefore means that he has made a decision. There is no null decision available under this position. If the Auditor-General is put into a location in politics where he or she has control over the amounts and the caps and so on in the bill, if the Auditor-General does not do anything that means that he or she has exercised a political judgement, which I believe is wrong and undermines the Auditor-General. Just as the Greens opposed using the Auditor-General to examine the proposed privatisation of the electricity industry, we would oppose the Auditor-General being put into this position.

Question—That Opposition amendment No. 1 be agreed to—put.

The Committee divided.

Ayes, 17

Mr Ajaka	Miss Gardiner	Ms Parker
Mr Borsak	Mr Gay	Mrs Pavey
Mr Brown	Mr Khan	Mr Pearce
Mr Clarke	Mr Mason-Cox	<i>Tellers,</i>
Ms Cusack	Reverend Dr Moyes	Mr Colless
Ms Ficarra	Reverend Nile	Mr Harwin

Noes, 20

Mr Catanzariti	Mr Kelly	Mr Shoebridge
Mr Cohen	Mr Moselmane	Mr Veitch
Ms Cotsis	Mr Obeid	Mr West
Ms Faehrmann	Mr Primrose	Ms Westwood
Ms Fazio	Mr Robertson	<i>Tellers,</i>
Mr Foley	Ms Robertson	Mr Donnelly
Dr Kaye	Ms Sharpe	Ms Voltz

Pairs

Mr Gallacher	Mr Hatzistergos
Mr Lynn	Mr Roozendaal

Question resolved in the negative.

Opposition amendment No. 1 negatived.

Clause 2 agreed to.

The Hon. DON HARWIN [10.22 p.m.]: I move Opposition amendment No. 2:

No. 2 Page 16, schedule 1 [23]. Insert after line 15:

(6) **Aggregation of expenditure of parties and affiliated organisations**

Electoral communication expenditure incurred by a party that is less than the amount specified in section 96F for the party is to be treated as expenditure that exceeds the applicable cap if that expenditure and any other electoral communication expenditure by an affiliated organisation of that party exceed the applicable cap so specified for the party.

- (7) In subsection (6), an *affiliated organisation* of a party means a body or other organisation, whether incorporated or unincorporated, that is authorised under the rules of that party to appoint delegates to the governing body of that party or to participate in pre-selection of candidates for that party (or both).

This key amendment deals with aggregating the campaign expenditure of political parties that are constitutionally affiliated organisations. An affiliated trade union is different from other third parties. Members spoke at length during the second reading debate about third party expenditure and it was alleged that the Coalition opposed such expenditure. No such argument has ever been advanced, nor would it be. The problem is that affiliated trade unions are not independent third parties but are bodies that have a direct and powerful, formal constitutional connection with a particular political party—the Australian Labor Party. This amendment will close the disgraceful loophole in the legislation that allows unions to spend huge amounts of money to assist the Labor Party, with which they are constitutionally connected, without that expenditure falling under the Labor Party's campaign expenditure cap.

This amendment provides that any third party formally affiliated with any political party, whether it be an affiliated Labor Party trade union or any other organisation, is subject to the spending cap of that political party. It defines an affiliated organisation of a political party as a body authorised to appoint delegates to the party's governing body and/or to participate in the preselection of its candidates. The amendment also provides

that the combined campaign expenditure of the Australian Labor Party and its affiliated trade unions will be limited to the \$18.6 million to which the Labor Party is limited. The fact that that limit has not been applied is the only proposition with regard to third party expenditure to which the Coalition has ever taken exception. We object to the fact that the campaign expenditure of affiliated trade unions that are constitutionally part of the Labor Party is not aggregated under the Australian Labor Party's campaign expenditure cap. Let that be absolutely clear.

In my second reading contribution I made extensive reference to the fact that under this legislation the Labor Party can spend \$18.6 million in the regulated period seeking re-election and its constitutionally affiliated trade unions, which are part of the party and which hold 50 per cent of the votes at the State conference, can spend about another \$23 million in proxy campaigns. That makes a total mockery of the stated aims of this legislation and shows contempt for the genuine need for reform.

Our colleague the Hon. Luke Foley said that he wished that an affiliated trade union would spend \$1 million to help the Labor Party in an election campaign. I can fully understand why next March even an affiliated Labor Party trade union would not want to spend \$1 million trying to save this lot. Despite a number of craven back-downs designed to accommodate the union movement, this Government has nevertheless disappointed many of its traditional supporters. I am sure that that disappointment has even seeped into the leadership ranks of some of the party's affiliated trade unions. However, an expectation that a union might spend \$1 million is different from the fact that the legislation provides that it can spend \$1 million. Of course, that is what the Coalition has been referring to; it has been referring to the limits in the bill.

I will deal with the Hon. Luke Foley's argument about trade unions spending \$1 million. He said that no union has spent anywhere near that amount to help the Labor Party in an election campaign. On numerous occasions in recent times affiliated unions have spent very significant amounts of money on Labor Party election campaigns. This bill provides that each third party can spend exactly \$2,000 supporting the election of a candidate. I will provide members with trade union campaign expenditure details for just one financial year and I will use the 2007-08 financial year to make my point.

In the year from July 2007 to June 2008 the Amalgamated Metal Workers Union gave \$100,108 to the Labor Party. That is funding for campaigns in five marginal seats. The Construction, Forestry, Mining and Energy Union donated \$204,093. That is funding for 10 marginal seat campaigns from just one year's donations. The Electrical Trades Union, the union of the party president, Bernie Riordan, gave \$109,080. That is funding for nine marginal seat campaigns, each of \$20,000. The Maritime Union of Australia gave \$71,995. That is funding for three and a half marginal seat campaigns. The Liquor, Hospitality and Miscellaneous Workers Union gave \$136,397 in one year. That is six lots of \$20,000, plus a bit more. It all starts to add up. And how could I leave out the Shop, Distributive and Allied Employees Association, with my colleague the Government Whip sitting right opposite me? In one year the Shop, Distribution and Allied Employees Association gave \$480,000.

The Hon. Luke Foley has the temerity to say that nothing like \$1 million has been spent. It might not be the full \$1 million, but it is certainly half a million dollars in one year from the union of which the Government Whip is the honorary president. That equates to 24 lots of \$20,000 that this member's union can spend on top of the Australian Labor Party's \$18.6 million cap. This is what Dr John Kaye is supporting.

Let us take it down to the level of one seat. I will make it nice and easy for Dr John Kaye so that he can tell Fiona Byrne and Jamie Parker what they will be up against. They are just two examples but the same numbers apply to both seats. Jamie Parker and Fiona Byrne can spend an amount of \$100,000 in addition to \$50,000 from the Greens as a registered political party. Against that, the member for Balmain and the member for Marrickville are entitled to save all their electorate mail-out expenditure until 1 January and spend the whole lot between 1 January and 28 February. Straight away, that is \$60,000 each. With 22 affiliated trade unions at \$20,000 each, the Labor Party is able to add an extra \$440,000 to campaign against Jamie Parker and Fiona Byrne. There is almost \$500,000 before a single cent is spent by the Balmain or Marrickville Labor parties or Sussex Street. Before a single cent is spent! If we add the \$100,000 that the locals spend and the \$50,000 from Sussex Street, the grand total is: Jamie Parker, \$150,000; Verity Firth, \$660,000. That is what Dr John Kaye is doing to his candidates. That is what he is signing off on. He should explain that to his members in Marrickville and Balmain. That is what he is signing off on here tonight.

Of course, that applies equally to lower House candidates put up by the Christian Democrats, the Shooters and Fishers Party, The Nationals or the Liberal Party. What an absolutely ridiculous sham this bill is. It

makes a total mockery of the concept of a level playing field and the idea of ending the arms race. How dare the Hon. Luke Foley, Nathan Rees' numbers man, come waltzing into a hearing of the Joint Select Committee on Electoral Matters one year ago saying that he would end the arms race and end the role of money in politics. This is what he has justified—\$150,000 for everyone else versus \$660,000 for his party. I hope he is proud of that. How dare he write opinion pieces in newspapers, setting up himself, his party and this bill as paragons of virtue when he is defending a complete rort. How dare he! All the crossbench members have an opportunity right now to say no to this outrageous rort. Expenditure by an affiliated trade union is fine—of course it has the right to spend money—but as they are part of the Labor Party the expenditure should come under the Labor Party cap.

The Hon. LUKE FOLEY [10.36 p.m.]: The best reaction to the Opposition Whip's rhetoric was that displayed by the Hon. Trevor Khan, who burst into hysterics. The Opposition Whip deliberately misleads the Committee about the expenditure of affiliated trade unions. He failed to mention that this bill treats union affiliation fees very differently from the way they have been treated to date. The bill provides that union affiliation fees cannot be spent on election campaigns. It provides that union affiliation fees have to go into a separate account for party administration and it will be forbidden for union affiliation fees—even for one cent of those fees—to be spent for the purposes of election campaigning. Yet, the member quotes figures from 2007-08 that include union affiliation fees.

The Hon. Don Harwin referred to the Shop, Distributive and Allied Employees Association. In both of its incarnations—the New South Wales branch and its northern branch—it is affiliated to the Labor Party through its 70,000 members, who paid over a quarter of a million dollars in affiliation fees that year. The Hon. Don Harwin quotes figures that include those affiliation fees to mount a case that the union will be doling out \$20,000 in each of multiple electorates. He then adds up all those amounts and claims that that is what will be spent on campaigning, when he knows full well that this bill forbids such a practice. He misleads the Committee. It will be forbidden for the affiliation fees of all the unions he named to be spent on election campaigning. He should cease misleading the Committee and he should recognise the reality. The member should accept that even with the bogus interpretation he put on the figures, not one of them comes within a bull's roar of the \$1.05 million that every member of the Coalition who has spoken in this and the other place claims will be spent by every union affiliate on election campaigning.

It is the great big lie, and members of the Opposition know it. If this amendment is passed to aggregate the expenditure of parties and their affiliates, employee associations affiliated to the Labor Party will be forbidden from engaging in political campaigning in their own right. The Electrical Trades Union in Victoria, an affiliate of the Labor Party that donates to the Greens, will be forbidden from paying any role in its own right. That may be a good thing. The Australian Manufacturing Workers Union, which has donated to Greens Senate campaigns in the past, will be forbidden from playing any further role in that regard.

The truth here is that unions have their own life and they have an existence separate from that of an affiliate of the Labor Party to represent the industrial interests of employees. At times, and I must say to my great regret, they make contributions to candidates other than those endorsed by the Australian Labor Party. But that proves that unions have a life of their own—an independent existence. They are registered under the various industrial laws of this country to represent their members. The amendment moved by the Opposition, if carried, would forbid employee associations from engaging in their legitimate role yet would permit each and every employer association to spend up to the \$1.05 million cap. Members should consider that. The amendment, if passed, would preclude employee associations from playing a legitimate role in our democracy yet would permit employer associations, each and every one of them, to spend up to \$1.05 million. That is a shameful proposition and ought to be rejected.

The Hon. ROBERT BROWN [10.42 p.m.]: This is a very informative debate. It is one of the best debates I have heard in this Chamber since I became a member in 2006.

The Hon. Duncan Gay: Not what I just heard.

The Hon. ROBERT BROWN: No, this is great; it is really good. And I thought I could bung it on!

The Hon. Ian Cohen: You just like a bit of biff!

The Hon. ROBERT BROWN: Yes, I do, but that was very good. I will get down to the point because I have learnt my lesson tonight. At first the Shooters and Fishers Party was concerned that the definition of

affiliated groups might have been too wide but the Hon. Luke Foley has now demonstrated that it is, in fact, very targeted and narrow. It is actually aimed at the unions. There is no risk there so we have probably been let out of jail. I was fascinated to learn that if the amendment is passed, Jamie Parker might become a member of the lower House whereas if it is rejected Verity Firth will be re-elected. That has made up our minds!

Dr JOHN KAYE [10.44 p.m.]: The Greens cannot possibly support this amendment, which would impose an unreasonable bind on trade unions affiliated to the Labor Party or any other political party as to what they can do. It would take away their rights to represent their members and to fulfil their capacity to advocate for the rights of their members in the context of an election campaign. It is not only immoral it is also highly likely to be unconstitutional. I am advised that the High Court would say that it would fetter the capacity of an organisation to fulfil its duty and, therefore, it would be open to a constitutional challenge. We should not pass legislation that is likely to be struck down in a High Court challenge. The Greens cannot accept this amendment. It is not moral and is not likely to survive a High Court challenge.

The Hon. DON HARWIN [10.45 p.m.]: I was very entertained by the contribution of the Hon. Robert Brown. Despite his conclusion, I will certainly not deprecate it. However, I wish to make one observation about the contribution of Dr John Kaye. In doing so, I will refer to the contribution of the Hon. Luke Foley to the second reading debate on this bill when he referred to the four-part Lange test decided by the High Court, which is relevant to the law in this particular area. The Hon. Luke Foley referred to the elements of the test, including whether the law is reasonably appropriate and has been adapted to serve that legitimate end. He made some unfortunate remarks about Arthur Moses, SC—

The Hon. Duncan Gay: They were pretty ordinary.

The Hon. DON HARWIN: They were very ordinary and I will not dignify them with a response. In terms of the third element of the test, significant doubt has been expressed by Anne Twomey about whether the law is reasonably appropriate. It relates exactly to this point and also to expenditure caps. Dr John Kaye is quite wrong in thinking that the amendment would bring down the bill because it might be ruled as unconstitutional. In fact, quite the opposite is the case. That the playing field is so uneven could well give rise to the argument that it is not reasonably appropriate, given the third element of the test in the Lange case. Therefore, members should not vote this amendment down believing it to be unconstitutional. There is a strong argument that the amendment will in fact help render the bill constitutional.

Question—That Opposition amendment No. 2 be agreed to—put.

The Committee divided.

Ayes, 18

Mr Ajaka	Mr Gay	Mrs Pavey
Mr Borsak	Mr Khan	Mr Pearce
Mr Brown	Mr Lynn	
Mr Clarke	Mr Mason-Cox	
Ms Cusack	Reverend Dr Moyes	<i>Tellers,</i>
Ms Ficarra	Reverend Nile	Mr Colless
Miss Gardiner	Ms Parker	Mr Harwin

Noes, 21

Mr Catanzariti	Mr Moselmane	Mr Veitch
Mr Cohen	Mr Obeid	Mr West
Ms Cotsis	Mr Primrose	Ms Westwood
Ms Faehrmann	Mr Robertson	
Ms Fazio	Ms Robertson	
Mr Foley	Mr Roozendaal	<i>Tellers,</i>
Dr Kaye	Ms Sharpe	Mr Donnelly
Mr Kelly	Mr Shoebridge	Ms Voltz

Pair

Mr Gallacher

Mr Hatzistergos

Question resolved in the negative.**Opposition amendment No. 2 negatived.**

The Hon. DON HARWIN [10.57 p.m.]: Madam Chair, I apologise for the delay. I have been getting procedural advice about where Opposition amendment No. 3 fits in with the other amendments that are being moved. I move Liberal and Nationals amendment No. 3:

No. 3 Pages 19 and 20, schedule 1 [26] (proposed section 96D), line 27 on page 19 to line 3 on page 20. Omit all words on those lines. Insert instead:

96D Prohibition on political donations other than by individuals on the electoral roll

It is unlawful for a political donation to a party, elected member, group, candidate or third-party campaigner to be accepted unless the donor is an individual who is enrolled on the roll of electors for State elections, the roll of electors for federal elections or the roll of electors for local government elections.

This amendment relates to restricting political donations to individuals on the electoral roll. There has already been considerable debate about this amendment during the speeches of a number of members who participated in the second reading debate. Even though the arguments in favour of the amendment had not been canvassed in my contribution to the second reading debate, there seems to have been a desire nevertheless to deal with the amendment early. Perhaps some of those who referred to the amendment in their contributions to the second reading debate will show some restraint during this debate in Committee, so that we do not hear the same arguments repeated.

Amendment No. 3 is to schedule 1, clause 26, new section 96D, and seeks to omit from line 27 on page 19 to line 3 on page 20 and insert a new section 96D, which is a prohibition on political donations other than by individuals on the electoral roll. Under the amendment that is defined to include the roll of electors for State elections, the roll of electors for Federal elections and the roll of electors for local government elections. The amendment seeks to ban corporate donations and donations from other entities, including trade unions and other organisations. It is a very simple principle, although it seems to be a very controversial principle for many members of this House. The Liberal Party and The Nationals have a very strong view: only enrolled individuals get to vote. Enrolled individuals are the principal actors with a stake. Sure, enrolled individuals might own a corporation or might be a member of a trade union, a voluntary community organisation or a sporting association. Every one of them, whatever their field, is able to vote and they should be able to donate.

There was a lot of conjecture and argy-bargy from the Hon. Luke Foley about the figure of \$1,000. He went on about how that suited only wealthy interests. The figure of \$1,000 is certainly a significant sum, there is no doubt about that, and would obviously be beyond the capacity of many of the less fortunate in our community to give. The Liberal Party and The Nationals have always consistently said that a donation to a political party should be tax deductible. It is a principle we stood up for when we formed the Federal Government between 1996 and 2007. That tax deductibility massively expands the pool of people who can donate. I suggest that a very large number of people in the Australian community would be able to give \$1,000, or a substantial amount of money, with the benefit of tax deductibility.

This is really what the debate is about. It is about increasing participation in politics, political parties and campaigning. It is about giving a much larger number of people a stake in the process. It is about diluting the interests of money and organisations that too many people in New South Wales perceive to be exercising undue influence as a result of everything that has gone on in this State under this Government and, if we are frank about it, even further back under other Labor governments. No doubt there will be discussion around the Chamber about other governments. This amendment tightens the limitations on political donations by restricting them to individuals on the electoral roll. Under this amendment, corporations, unions and other third parties and interest groups will be prohibited from making donations to political parties.

As the Leader of the Opposition has said, corporations and other entities do not get a vote. Only Australian citizens have the right to vote and they should be the only people who can donate. This change will make the system we are bringing in simpler and easier to understand, and will dispel from the public mind any suspicions about shady links with corporate or other entities, links that can be so readily perceived to have influenced policies and decisions about the administration of the governance of our State by this Labor Government. This is not anything radical. It is exactly the law of Canada, where it works very well. I believe it would certainly enhance the integrity of the system that is being put before the Committee tonight in the bill. I commend the amendment to the Committee.

The Hon. ROBERT BROWN [11.05 p.m.]: This amendment could be described as putting in the boot when a man is down. I understand the moral position that the Opposition is taking and I understand the political tactics involved, but it cuts our throats right through. If we supported an amendment such as this we would be saying that society does not organise itself into protective groups such as common interest associations, churches, the Sporting Shooters Association of Australia, the Federation of Hunting Clubs, and various other groups. It assumes that people do not organise themselves into industrially protective organisations such as unions. One could argue that employer associations are the same.

The Shooters and Fishers Party, and I dare say the Christian Democratic Party, relies on our constituent organisations far more than we rely on the will of individual members of those organisations. Not every member of the Sporting Shooters Association agrees that the association should donate to the Shooters and Fishers Party, but the vast majority do. Every church group or community group on the Christian Democratic Party's side of things may not necessarily agree that it is the party of choice. Whilst we would like to vote for anything that will kill the bill, I am sorry that we cannot possibly support this amendment because our constituents would ask, "What the hell are you doing to us?"

The Hon. MICHAEL VEITCH (Parliamentary Secretary) [11.08 p.m.]: The Opposition's proposal to restrict donations only to individuals on the electoral roll will be unworkable, and possibly unconstitutional. The Opposition's proposal will simply open loopholes whereby companies will nominate an individual to donate on their behalf. All the reforms in the Government's bill have been carefully developed to balance the policy aim of reducing reliance on political donations with the need for the reforms to be both constitutional and enforceable. The bill is a complete package of reasonable and measured reforms to donation caps, expenditure limits and public funding for campaigns. It is not a smorgasbord of options from which to pick and choose. The Opposition's blunt proposal to ban all donations by corporate entities could throw the effectiveness of the whole scheme into doubt by crudely upsetting the balance achieved by the bill. The amendment is nothing more than an attempt by the Opposition to destroy the bill. The amendment is unacceptable to the Government and, if passed, will bring the reform process to an end.

Dr JOHN KAYE [11.10 p.m.]: The Greens will not support the amendment, which is clearly designed to bring the reform process to an end. If the amendment is successful, the bill will be stopped from passing the lower House and the caps on corporate donations will be lost.

The Hon. Robert Brown: Yippee!

Dr JOHN KAYE: I acknowledge the interjection of the Hon. Robert Brown. The caps on individual donations will also be lost. The progress this bill represents will be lost. The choice for the Greens is clear: either we support the amendment, feel good and destroy the bill, or we oppose the amendment, cop it from the Opposition and the bill will be passed. The choice for the Greens is: no caps or \$5,000? The Greens will take the \$5,000 cap and oppose the amendment.

The Hon. DON HARWIN [11.10 p.m.]: In response to the argument about the constitutionality of this amendment, this is the law of Canada. Canada operates under a Charter of Human Rights and has the same common law as Australia. This provision has never been successfully challenged in Canada; it is regarded as the law. I have absolutely no doubt that this amendment would be upheld as constitutional by the High Court of Australia and it would pass each of the four elements of the Lange case. The Joint Standing Committee on Electoral Matters took evidence on this from a panel of distinguished academics. It was put to all of them and they considered that it would be constitutional.

This amendment should also be viewed in the context of the amendments shortly to be moved by the Greens and the Christian Democratic Party regarding a range of sector-specific bans, which have spread in ever-increasing concentric circles since this morning, and continue to grow. If anything is unconstitutional then a sector-specific ban is at the top of the list. I made this point when the House was dealing with the developer donations legislation last year, and there is plenty of advice to that effect. There has been substantial discourse on undue influence by the property sector, but in the view of eminent lawyers that is highly likely to fall over. The range of other industries that will be potentially drawn in will increasingly jeopardise the constitutionality of the bill. If constitutionality is the concern of Dr John Kaye—

Dr John Kaye: I did not mention it.

The Hon. DON HARWIN: I apologise; I have been distracted by the number of contributions. Perhaps the Hon. Michael Veitch mentioned it. The Hon. Michael Veitch was present at the hearings of the Joint Standing Committee on Electoral Matters. He knows what George Williams and Anne Twomey said. If he is worried about unconstitutionality then the far safer option would be to support the Opposition's amendment.

Question—That Opposition amendment No. 3 be agreed to—put.

The Committee divided.

Ayes, 16

Mr Ajaka	Mr Khan	Mrs Pavey
Mr Clarke	Mr Lynn	Mr Pearce
Ms Cusack	Mr Mason-Cox	
Ms Ficarra	Reverend Dr Moyes	<i>Tellers,</i>
Miss Gardiner	Reverend Nile	Mr Colless
Mr Gay	Ms Parker	Mr Harwin

Noes, 23

Mr Borsak	Mr Hatzistergos	Ms Sharpe
Mr Brown	Dr Kaye	Mr Shoebridge
Mr Catanzariti	Mr Kelly	Mr Veitch
Mr Cohen	Mr Moselmane	Mr West
Ms Cotsis	Mr Obeid	Ms Westwood
Ms Faehrmann	Mr Primrose	<i>Tellers,</i>
Ms Fazio	Mr Robertson	Mr Donnelly
Mr Foley	Ms Robertson	Ms Voltz

Pair

Mr Gallacher

Mr Roozendaal

Question resolved in the negative.

Opposition amendment No. 3 negatived.

The Hon. DON HARWIN [11.22 p.m.]: I move Opposition amendment No. 4:

No. 4 Page 20, schedule 1 [26]. Insert after line 3:

96DA Prohibition on political donations to parties by affiliated organisations without approval of members

- (1) It is unlawful for an affiliated organisation to make a political donation to a party unless the donation has been approved by at least 50% of the members of the organisation at a secret ballot that is conducted in accordance with procedures approved by the Electoral Commissioner of New South Wales.
- (2) In this section, an *affiliated organisation* means a body or other organisation, whether incorporated or unincorporated, that is authorised under the rules of a party to appoint delegates to the governing body of that party or to participate in pre-selection of candidates for that party (or both).

This amendment will amend page 20, schedule 1 item [26], and insert after line 3 a new section 96DA, which is a prohibition on political donations to parties by affiliated organisations without the explicit consent of the membership. This amendment seeks to ensure that any political donations made to a political party by an affiliated organisation are done so only with the express consent of a majority of the membership. The amendment will require the New South Wales Electoral Commission to undertake a vote of all members to ensure that a majority of members consent before an affiliated entity can donate to a political party. As with one of our earlier amendments, an affiliated organisation of a political party is defined as a body authorised to appoint delegates to the party's governing body and/or participate in the preselection of its candidates.

Many working people pay union fees and dues for the betterment of safety and their working conditions, but their money is then funnelled to the Labor Party. Many union members do not want their dues to

support this broken New South Wales Labor Government. This amendment will ensure that donations to political parties by affiliated organisations such as unions genuinely reflect the will of the organisation's membership. This will prevent such organisations from being established and/or operated purely as a source of revenue without regard to the wishes of the membership. Once again, this amendment raises the standards of the reform package proposed in this bill. It is about ensuring that this bill truly delivers a scheme for public funded elections in New South Wales that is balanced, transparent and beyond questions of undue influence. I commend the amendment to the Committee.

The Hon. MICHAEL VEITCH (Parliamentary Secretary) [11.24 p.m.]: I can feel the contempt for the union movement across the Chamber—it is unbelievable! This is yet another attempt by the conservative parties to destroy the union movement. Let us not forget that a former Federal Coalition Government implemented the extreme and unfair workplace laws known as WorkChoices, which were repudiated by the Australian people at the 2007 Federal election. Those laws cut penalty and overtime rates, cut annual wage increases, and made it easier for workers to get sacked for no reason at all. Yesterday in the other place the Leader of the Opposition singled out the Nurses Association, a third party stakeholder group that is not affiliated with the Australian Labor Party.

During the last election campaign the Nurses Association spent money because the Opposition wanted to sack 20,000 public servants, which action would have affected front-line services such as nursing—something that is a core concern of its membership. Unions play an important role in representing the rights of workers and they should not be singled out. Indeed, such a restriction may not be constitutional. In many cases it would cost more to conduct such a secret ballot than the value of the intended donation. The Government does not support this amendment.

The Hon. DON HARWIN [11.26 p.m.]: What is the Government scared of? All this amendment will do is enable democracy. It will enable members to decide and it will enable a vote. If 50 per cent of members want to do that, they can do that. I am hearing all this feigned outrage from Labor members around the Chamber. What are they scared of?

Question—That Opposition amendment No. 4 be agreed to—put.

The Committee divided.

Ayes, 15

Mr Ajaka	Mr Khan	Mr Pearce
Mr Clarke	Mr Lynn	
Ms Cusack	Mr Mason-Cox	
Ms Ficarra	Reverend Dr Moyes	<i>Tellers,</i>
Miss Gardiner	Ms Parker	Mr Colless
Mr Gay	Mrs Pavey	Mr Harwin

Noes, 24

Mr Borsak	Dr Kaye	Mr Shoebridge
Mr Brown	Mr Kelly	Mr Veitch
Mr Catanzariti	Mr Moselmane	Mr West
Mr Cohen	Reverend Nile	Ms Westwood
Ms Cotsis	Mr Obeid	
Ms Faehrmann	Mr Primrose	
Ms Fazio	Mr Robertson	<i>Tellers,</i>
Mr Foley	Ms Robertson	Mr Donnelly
Mr Hatzistergos	Ms Sharpe	Ms Voltz

Pair

Mr Gallacher

Mr Roozendaal

Question resolved in the negative.

Opposition amendment No. 4 negatived.

Dr JOHN KAYE [11.33 p.m.]: I move the Greens amendment:

Page 20, schedule 1. Insert after line 12:

[28] Section 96GAA

Insert before section 96GA:

96GAA Meaning of "prohibited donor"

For the purposes of this Division, a *prohibited donor* is:

- (a) a property developer, or
- (b) a tobacco industry business entity, or
- (c) a liquor or gambling industry business entity,

and includes any industry representative organisation if the majority of its members are such prohibited donors.

[29] Sections 96GA and 96GE

Omit "property developer" wherever occurring.

Insert instead "prohibited donor".

[30] Section 96GB Meaning of "property developer", "tobacco industry business entity" and "liquor or gambling industry business entity"

Insert after section 96GB (2):

(2A) Each of the following persons is a *tobacco industry business entity*:

- (a) a corporation engaged in a business undertaking that is mainly concerned with the manufacture or sale of tobacco products,
- (b) a person who is a close associate of a corporation referred to in paragraph (a).

(2B) Each of the following persons is a *liquor or gambling industry business entity*:

- (a) a corporation engaged in a business undertaking that is mainly concerned with either or a combination of the following, but only if it is for the ultimate purpose of making a profit:
 - (i) the manufacture or sale of liquor products,
 - (ii) wagering, betting or other gambling (including the manufacture of machines used primarily for that purpose), or
- (b) a person who is a close associate of a corporation referred to in paragraph (a).

The purpose of this amendment is to remove a number of donor categories from being eligible to donate to political parties and candidates. This amendment extends the existing prohibition on property developers to a tobacco industry business entity and a liquor or gambling industry business entity. During debate on the second reading speech we referred to the tobacco industry. Tobacco is responsible for 5,000 deaths every year and 42,000 hospitalisations. The tobacco industry thrives on the basis of addiction. It causes untold damage and it should not be part of the political process.

The next government and following governments face a number of challenges, such as amending the Smoke-free Environment Act to make all outdoor dining and food service areas 100 per cent smoke-free; removing tobacco control activities, such as the exemption in the Smoke-free Environment Act for high-roller gambling areas; banning tobacco vending machines; licensing all retailers that sell tobacco products; enhancing the New South Wales tobacco strategy, including the restoration of former funding levels for mass media campaigns; and, most importantly, setting real targets in smoking rates with the longer-term aim of making New South Wales a tobacco-free State. These important objectives will not be met unless our governments are not addicted to tobacco money.

Similarly, this amendment makes it unlawful for a liquor or gambling industry business to make a donation. Earlier we talked about the large sums of money from liquor and gambling that go into the coffers of New South Wales political parties. Both these industries present major regulatory challenges in terms of minimising the harm inflicted from adverse alcohol consumption, and gambling and gaming machine addiction.

These challenges must be dealt with in a complex public debate and such debate cannot be allowed to be perverted by the rivers of cash that come from those industries. This amendment also captures industry representative organisations, if those bodies have a majority of members who come from those prohibited donors.

The amendment in relation to a liquor or gambling industry business entity captures only the for-profit businesses—that is, organisations that engage in activities primarily for the purpose of making a profit. I make it clear that we are not targeting small clubs. We are going after the profit sector. These important changes will enable the next government, in the absence of a complete ban on corporate donations, to make sensible decisions that are in the best interests of the people of New South Wales and are not corrupted in any way by money from these industries. I commend the Greens amendment to the Committee.

The Hon. MICHAEL VEITCH (Parliamentary Secretary) [10.37 p.m.]: The Government supports this amendment. The New South Wales Labor Party does not accept donations from tobacco companies and has not done so for more than six years. The New South Wales Government has legislated to ban indoor smoking in pubs, clubs and cars carrying children, to remove tobacco displays in retail outlets, and to run a number of public education campaigns. The Government supports the Greens amendment to the bill.

Reverend the Hon. FRED NILE [11.38 p.m.], by leave: I move Christian Democratic Party amendments Nos 1 and 2 in globo:

No. 1 In proposed schedule 1 [28] of the Greens amendment insert after the word "entity" in proposed section 96GAA (b):

, or

(c) a sex industry business entity.

No. 2 In proposed schedule 1 [30] of the Greens amendment insert after proposed section 96GB (2A):

(2B) Each of the following persons is a *sex industry business entity*:

(a) a corporation engaged in a business undertaking that is mainly concerned with:

(i) the operation of a brothel, or

(ii) the production or sale of pornography, or

(iii) any other sex industry,

(b) a person who is a close associate of a corporation referred to in paragraph (a).

We saw from the previous election the growth of the so-called Australian Sex Party and the mobilisation of the sex industry in the political realm, which is a new development. This multimillion dollar industry would be prepared to work either through its own political party or try to influence major parties with donations. In the same way that the Greens and I support the ban on the tobacco, liquor and gambling industries, we should also include the so-called sex industry. I do not oppose sex; sex is a wonderful thing, but in the pornography business the word "sex" is used to describe the industry or adult material, which we know applies to prostitution, brothels or pornography.

We are forced to use this terminology in the legislation. It really is the anti-sex industry, but that terminology would not make sense. Therefore, I am using society's normal use of the words. It is important to close the door to this particular possibility, which now is a reality. At the Federal election the Australian Sex Party received a high election vote in New South Wales, which is not its most active State. South Australia is its most active State, where it received a high vote and where its headquarters are based. The Australian Sex Party thought it might have won a Senate seat in that State at that election and its aim is to win a Senate seat in each State at a future election. It is important that the Committee supports these amendments.

The Hon. DON HARWIN [11.42 p.m.]: The night is young. As I mentioned earlier in my comments on the Opposition's third amendment, today we have seen an ever-expanding number of industries brought within the ambit of sector-specific bans. If members have others to add to the list, perhaps by the end of this evening the list will be quite extensive and not that different from the Opposition's third amendment to ban all corporations. In respect to these amendments, members need to reflect on the sense of the Coalition's third amendment and the concerns I raised about not going down that route.

I ask Reverend the Hon. Fred Nile to clarify a couple of matters. Subparagraph (ii) of the amendment to section 96GB (2B) (a) refers to the production or sale of pornography and subparagraph (iii) refers to any other sex industry. The bill contains no definition of "pornography" or "sex industry". I ask Reverend the Hon. Fred Nile to clarify what is covered by those terms. In regard to the sale of pornography, will newsagents be included in the ambit of this bill? Does that mean it will include every newsagent and, potentially, every service station that has for sale a copy of *Playboy* or *Penthouse* on its shelves?

The Hon. Shaoquett Moselmane: Video shops.

The Hon. DON HARWIN: We will not go there because we know that the sale of videos and DVDs is not legal in New South Wales. Certainly we would not encourage donations from those entities.

Dr John Kaye: What is pornography?

The Hon. Duncan Gay: John, it's pornography; it's R-rated.

Dr John Kaye: It's not X-rated. It could be any pornography.

The Hon. DON HARWIN: This is why I seek clarification. I am not attempting in any way to deprecate the amendments of Reverend the Hon. Fred Nile. I want the Committee to know the extent of coverage of the amendments.

The Hon. JOHN HATZISTERGOS (Attorney General, Minister for Citizenship, Minister for Regulatory Reform, and Vice-President of the Executive Council) [11.45 p.m.]: Reverend the Hon. Fred Nile might explain also the meaning of "any other sex industry". Does it include a lingerie shop? Some of the language in the amendments is broad. What is the meaning of a "close associate" as referred to in paragraph (b)? Irrespective of whether that person is involved in the particular activity, does that mean that somehow they are excluded? I have no brief for the industry the member seems to be targeting in these amendments. I made that point clear during debates on other legislation. It seems that the legislation is so broad and encompasses such a wide range of potential individuals and businesses that these amendments would be highly problematic.

Dr JOHN KAYE [11.46 p.m.]: It would have been remiss of me not to acknowledge that it was Reverend the Hon. Fred Nile who first tabled an amendment in respect to the liquor and gambling industries, which we adopted for the amendment regarding tobacco. The Greens have grave concerns about the amendments moved by Reverend the Hon. Fred Nile. The first concern relates to his comments about the amendments. Clearly, Reverend the Hon. Fred Nile was targeting one particular political party, the Sex Party. One may have different attitudes towards the Sex Party, but an amendment that specifically targets donations to one specific political party is unfair and unconscionable, and should be rejected.

I echo also the remarks of the Attorney General and the Opposition Whip that in the absence of a definition of "pornography" this legislation could become a broad or narrow net. We would be exercising a gamble on its actual meaning. The whole definition of a sex industry is self-referential. A sex business entity includes any other sex industry. That becomes quite an illogical definition and is quite dangerous. For those reasons the Greens cannot support the amendments to the Greens amendment.

The Hon. AMANDA FAZIO [11.48 p.m.]: I support many of the comments of other members who have expressed reservations about the amendments of Reverend the Hon. Fred Nile. It is entirely inappropriate for any amendments to be used to target individual political parties. Apart from the fact that I doubt his amendments would be workable, a bill designed to improve the election funding and disclosures regime in New South Wales should not be used for the purposes of political censorship. They are my severe concerns with the amendments moved by Reverend the Hon. Fred Nile.

Mr DAVID SHOEBRIDGE [11.49 p.m.]: There is one other fundamental reason not to support Reverend the Hon. Fred Nile's amendment: it does not address a known problem in relation to political donations here in New South Wales. We know the scope of the problem in relation to the alcohol, gambling, property development and tobacco industries. In the past 10 years we have seen hundreds of thousands of donations from the alcohol industry, millions from the hotel industry, many millions from the development industry, hundreds of thousands from the tobacco industry, and more than a million from the gaming industry, but donations from what is defined as the sex industry—assuming there is some sort of rational scope to the nature of the business covered by the definition—simply do not feature. It is not one of the industries that is

corrupting the public processes here in New South Wales in the same way that the alcohol, property development and tobacco industries are. It does not address an identified problem and therefore it is not a rational stand-alone sector to target, as proposed by the honourable member.

Reverend the Hon. FRED NILE [11.50 p.m.]: I reject completely the assertions of Mr David Shoebridge. One of the most serious areas of activity in the State is the brothel industry—legal and illegal—and the porn industry. It is a billion-dollar business. Just because the Greens may not be aware of it or cannot see it does not mean that it does not exist. The sex industry exists as much as the liquor and gambling industries exist. I am sorry if I misled members by referring to the Australian Sex Party. This amendment does not target the Australian Sex Party. I was only indicating that the industry has moved into the political area and has its own political party, which shows that it believes it needs to have an influence politically. It would suit its business interests to use donations to influence the decisions of political parties. Some large companies in Sydney that have links to the pornography industry—although it is very hard to prove—make donations to political parties. Some are well-known companies with subsidiaries that have printing factories that produce pornography, but they are not clearly linked. The Greens may not be aware of it but these companies are active, influential and wealthy. It is a multi-billion-dollar industry. As I say, the amendment is not intended to target the Australian Sex Party. I was just using it as an example of the sex industry moving into the political arena.

The Hon. John Hatzistergos: What does "pornography" mean?

Reverend the Hon. FRED NILE: It would be up to you. If the Labor Party gets a donation from the main brothel groups in Sydney and this bill is passed, then the Labor Party has to make a decision that it will not accept that donation. If the Labor Party accepts a donation and a complaint is made to the Electoral Commission about the donations it has received, a decision has to be made as to whether it has, in fact, received donations from a sex industry business entity. Everybody would have to be very careful of donations and reject those that came from this particular area of activity. You make your own judgement not to accept donations from them. The Labor Party has made a decision not to accept any donations from anybody associated with the tobacco industry. That has not been very difficult for the Labor Party to do, and the same thing would apply in this area. It is self-regulation: you make your own decision as to whether you accept the donations. If you accept donations then you are open to public criticism and investigation by the Electoral Commission as to whether you have in fact broken the law.

Question—That Christian Democratic Party amendments Nos 1 and 2 to the Greens amendment be agreed to—put.

The Committee divided.

Ayes, 3

Mr Brown

Tellers,

Mr Borsak

Reverend Nile

Noes, 34

Mr Ajaka
Mr Catanzariti
Mr Clarke
Mr Cohen
Mr Colless
Ms Cotsis
Ms Cusack
Ms Faehrmann
Ms Fazio
Ms Ficarra
Mr Foley
Miss Gardiner

Mr Gay
Mr Harwin
Mr Hatzistergos
Dr Kaye
Mr Khan
Mr Lynn
Mr Mason-Cox
Mr Moselmane
Reverend Dr Moyes
Ms Parker
Mrs Pavey
Mr Pearce

Mr Primrose
Ms Robertson
Mr Roozendaal
Ms Sharpe
Mr Shoebridge
Mr Veitch
Mr West
Ms Westwood

Tellers,

Mr Donnelly
Ms Voltz

Question resolved in the negative.

Christian Democratic Party amendments Nos 1 and 2 to the Greens amendment negated.

Reverend the Hon. FRED NILE [12.02 a.m.]: I move Christian Democratic Party amendment No. 3, which amends section 96GB (2B) (a) of item [30] of the Greens amendment to schedule 1:

No. 3 In proposed schedule 1 [30] of the Greens amendment insert after proposed section 96GB (2A):

- (2B) Each of the following persons is a *liquor or gambling industry business entity*:
- (a) a corporation engaged in a business undertaking that is mainly concerned with:
 - (i) the manufacture or sale of liquor products, or
 - (ii) wagering, betting or other gambling, or
 - (iii) both.
 - (b) a person who is a close associate of a corporation referred to in paragraph (a).

I originally drafted the amendments to schedule 1, as acknowledged by Dr John Kaye. The Greens incorporated my amendments into their amendment of section 96GB (2B) of schedule 1 to the bill, but added words that the amendment I have just moved seeks to omit. Item [30] of the Greens amendment states:

[30] Section 96GB Meaning of "property developer", "tobacco industry business entity" and "liquor or gambling industry business entity"

Insert after section 96GB (2):

- (2A) Each of the following persons is a *tobacco industry business entity*:
- (a) a corporation engaged in a business undertaking that is mainly concerned with the manufacture or sale of tobacco products,
 - (b) a person who is a close associate of a corporation referred to in paragraph (a).
- (2B) Each of the following persons is a *liquor or gambling industry business entity*:
- (a) a corporation engaged in a business undertaking that is mainly concerned with either or a combination of the following, but only if it is for the ultimate purpose of making a profit:
 - (i) the manufacture or sale of liquor products,
 - (ii) wagering, betting or other gambling (including the manufacture of machines used primarily for that purpose), or
 - (b) a person who is a close associate of a corporation referred to in paragraph (a).

The words that Christian Democratic Party amendment No. 3 seeks to omit relate to the element of profit. The effect of my amendment will be to replace the Greens new section 96GB (2B) (a) with the words in (2B) (a) of my amendment. My amendment omits the words in the Greens amendment that relate to profit, particularly "but only if it is for the ultimate purpose of making a profit" in (2B) (a).

The Hon. DON HARWIN [12.04 a.m.]: It would probably assist the Committee at this point if Dr Kaye or Mr Shoebridge could state why those words were included.

Dr JOHN KAYE [12.05 a.m.]: The effect of Reverend the Hon. Fred Nile's amendment would be twofold. First, it will remove from the Greens amendment of section 96GB (2B) (a) (ii) "(including the manufacture of machines used primarily for that purpose)". That will remove the Greens clarification that manufacture of those machines is captured by the provision. Secondly, as Reverend the Hon. Fred Nile pointed out, the provision will apply only if the ultimate purpose is making a profit.

The intent of the Greens amendment was to make clear that the legislation is not intended to capture clubs that are not operating for profit. The big difference between Reverend the Hon. Fred Nile's amendment of section 96GB (2B) (a) and the Greens amendment of section 96GB (2B) (a) is that clubs that do not operate for

profit, particularly small community clubs, may be prohibited from making donations whereas the Greens believe that the major concern relating to clubs' donations is with respect to the larger profit end of the clubs sector and hotels.

The CHAIR (The Hon. Kayee Griffin): I ask Reverend the Hon. Fred Nile to clarify his amendment.

Reverend the Hon. FRED NILE [12.07 a.m.]: The effect of my amendment will be to delete from the Greens amendment (2B) the words from "Each of the following persons" down to (ii) "primarily for that purpose) or". In other words, my amendment seeks to replace all of the Greens (2B).

The CHAIR (The Hon. Kayee Griffin): Your amendment will omit all of (2B) (a) down to "primarily for that purpose) or" in (ii) of the Greens amendment, and replace that with a new (2B), which includes (a) (i), (ii) and (iii). Is that correct?

Reverend the Hon. FRED NILE: Yes.

Dr JOHN KAYE [12.08 a.m.]: I seek clarification of whether Reverend the Hon. Fred Nile will also be deleting (2B) (a) (i) and (ii) of the Greens amendment.

The CHAIR (The Hon. Kayee Griffin): Yes. That is what Reverend the Hon. Fred Nile said.

Dr JOHN KAYE: I misunderstood. So the effect of Reverend the Hon. Fred Nile's amendment is replacement of the Greens (2B) (a) (i) and (ii) with the Christian Democratic Party's (2B) (a) (i), (ii) and (iii).

The CHAIR (The Hon. Kayee Griffin): Yes.

Question—That Christian Democratic Party amendment No. 3 of Greens amendment be agreed to—put and resolved in the negative.

Christian Democratic Party amendment No. 3 negatived.

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

Greens amendment agreed to.

Schedule 1 as amended agreed to.

Reverend the Hon. FRED NILE [12.10 a.m.], by leave: I move Christians Democratic Party amendments Nos 1 to 4 in globo:

No. 1 Page 23, schedule 2 [3], proposed section 57 (3) (a), line 30. Omit "4%". Insert instead "2%".

No. 2 Page 23, schedule 2 [3], proposed section 57 (3) (b), line 36. Omit "4%". Insert instead "2%".

No. 3 Page 25, schedule 2 [3], proposed section 59 (3) (a), line 26. Omit "4%". Insert instead "2%".

No. 4 Page 25, schedule 2 [3], proposed section 59 (3) (b), line 33. Omit "4%". Insert instead "2%".

These amendments have the same purpose. The bill refers to the need to achieve at least 4 per cent of the total number of first preference votes in the electoral district in which the candidate was nominated for election. Traditionally, Legislative Assembly and Legislative Council candidates have had to attract 4 per cent of first preference votes or be elected to obtain funding. My amendment reduces that to 2 per cent to fulfil former Premier Wran's objectives when he introduced public funding of election campaigns. His main argument was that it would support minor parties and Independents. It was never intended to provide a large amount of funding for the major parties, which at that stage were receiving large donations and were spending millions of dollars on election campaigns. The aim was to make the electoral process far more democratic, but the legislation did require that candidates attract 4 per cent of the first preference vote or be elected before they would receive any funding. I believed then that a threshold of 4 per cent was too high.

Members of major parties have suggested to committees on which I have served dealing with electoral reform that the figure should be 8 per cent. That would mean that very few Independent or minor party candidates would obtain funding and it would only exacerbate the bias towards the major parties—the

Australian Labor Party, the Liberal Party, The Nationals and now the Greens. I am anxious to support minor party candidates who wish to be involved in the political process. The 2 per cent threshold would mean that they would obtain some funding. It would not be a large amount, but it would be far better than nothing.

The Christian Democratic Party spent \$150,000 during the last Senate election campaign and attracted a little more than 2 per cent of the vote. As a result we got not one dollar of public funding. I want to encourage minor party and Independent candidates. It would be fairer if the threshold were 2 per cent. As I said, the Electoral Commissioner told a committee I chaired that he had no objection to there being no threshold. He said that that would not create any problems for the funding authority. I do not want to go that far, but I do believe that a threshold of 2 per cent would be fairer.

The Hon. ROBERT BROWN [12.12 a.m.]: Has Reverend the Hon. Fred Nile foreshadowed an amendment that will clarify the new sections to which this will apply—that is, new sections 57 and 59?

Reverend the Hon. Fred Nile: Yes.

The Hon. ROBERT BROWN: Whilst the Shooters and Fishers Party does not necessarily support the logic behind Reverend the Hon. Fred Nile's amendment—that is, we are happy to strive for that 4 per cent threshold or to be elected—

The Hon. Greg Pearce: But you will be happy to accept 2 per cent.

The Hon. ROBERT BROWN: I did not say that. The Shooters and Fishers Party would be inclined to support an amendment like this if the Government were prepared to support the amendment foreshadowed by Reverend the Hon. Fred Nile to fix what is either a mistake or a deliberate attempt to do over endorsed minor parties in new sections 57 and 59. Hopefully it is a mistake and not a deliberate strategy. If it was a deliberate strategy, the references that have been made throughout this debate to the four pillars as a test of equity would go straight out the window.

The Hon. Matthew Mason-Cox: They already have.

The Hon. ROBERT BROWN: No, this is either very sneaky or an error. Because we are not prescient, we do not know whether the Labor Party and the Opposition will support Reverend the Hon. Fred Nile's foreshadowed amendment, which has not even been circulated. We will probably support the amendment, but not for the reason suggested by members—that is, because of greed. The Shooters and Fishers Party is happy to pump for the 4 per cent threshold. However, if we are to be done over by this sneaky little trick, we probably need to take what we can get.

Dr John Kaye: You are talking about the wrong amendment.

The Hon. ROBERT BROWN: Dr Kaye should do his homework.

The Hon. MICHAEL VEITCH (Parliamentary Secretary) [12.17 a.m.]: I will deal with the amendments moved by Reverend the Hon. Fred Nile and the Attorney General will deal with his foreshadowed amendment. The Government will not support any amendment that reduces the eligibility threshold for public funding from 4 per cent to 2 per cent. The threshold for receiving public funding from the central fund administered by the Election Funding Authority is 4 per cent of first preference votes or the election of a member. The joint standing committee report states:

There was broad support for the retention of the current 4% (or member elected) threshold for eligibility for public funding. The Electoral Commission's proposed funding model provides for eligibility for entitlements to be based on a minimum threshold of 4% of first preference votes. The Commission notes that this is consistent with current legislation and with the experience in many international jurisdictions.

Reverend the Hon. Fred Nile's amendment also has the potential to greatly increase the cost of the scheme. Therefore, the Government cannot support the amendment.

Question—That Christian Democratic Party amendments Nos 1 to 4 be agreed to—put and resolved in the negative.

Christian Democratic Party amendments Nos 1 to 4 negatived.

Reverend the Hon. FRED NILE [12.20 a.m.]: I move:

Schedule 2, clause 57 (3) (a), line 31. Delete "all electoral districts" and insert "the electoral district(s)".

This amendment relates to a matter to which the Hon. Robert Brown referred. New section 57 (3) sets out the party eligibility criteria, and subsection (3) (a) provides:

... at least 4% of the total number of first preference votes in all electoral districts in which the candidates were duly nominated for election ...

The way the bill is worded completely changes how funding has been provided since 1981. Under the current rules, if a candidate received at least 4 per cent or was elected he received funding. New section 57 (3) (a) now provides that it must be the total number of first preference votes in all electoral districts in which the candidates were duly nominated for election. For example, a number of Christian Democratic Party candidates get 4 per cent or more of the vote and they receive funding. However, a much larger number of Christian Democratic Party candidates get 1 per cent or 2 per cent of the vote. If the percentages are averaged—I have averaged the percentages—our average would be at least 2.9 per cent, which would mean that Christian Democratic Party candidates who individually got more than 4 per cent would not receive funding. That is how I read the provision. I know there is a discussion going on about it, but on my reading of the plain English that is what it says. To make it clearer, section 59 (3) (b) states:

... the candidate is elected or the total number of first preference votes received by the candidate is at least 4% of the total number of first preference votes in the election.

The provision in section 59 (3) (a) has been the rule until now, but the wording in new section 57 (3) (a) in this bill is completely new and different and will, I believe, have a different impact on the eligible funding for minor parties whose total vote across the State, if the votes for all their candidates are added up—despite some candidates getting more than 4 per cent—the actual average vote would go below 4 per cent and therefore no candidates would get funding. That is how I read the provision. My amendment would delete the words "in all electoral districts"—the key word is "all"—and insert instead the words "in the electoral district(s)". I seek the cooperation of the Committee as I do not have a printed copy of the amendment.

The Hon. JOHN HATZISTERGOS (Attorney General, Minister for Citizenship, Minister for Regulatory Reform, and Vice-President of the Executive Council) [12.24 a.m.]: I am not sure of the actual text of the amendment now proposed, but I understand it will delete the words "in all electoral districts" from new section 57 (3) (a) and replace them with the words "in electoral district(s)". Frankly, I think the confusion that has arisen is based on the assumption that somehow a candidate who is successful in an election is not eligible for funding. The expenditure requirements are dealt with in new section 59 for an individual candidate even though they may be endorsed by a particular party. New section 57 deals with the position in relation to party expenditure, which is a separate issue altogether. There is no attempt to disadvantage individuals, and I am not quite sure what the honourable member is concerned about. If he is concerned about a sequence of events that might result in a party fielding a number of candidates and one gets elected—

Reverend the Hon. Fred Nile: No, none gets elected although some get 4 per cent.

The Hon. JOHN HATZISTERGOS: I understand that the amendment targets the situation of one person getting elected or getting 4 per cent of the relevant vote. Those issues are dealt with in new section 59, which I believe adequately addresses the concern raised by the honourable member.

Mr DAVID SHOEBRIDGE [12.26 a.m.]: The Greens do not support the amendment not because there is any concern about the intent raised by the honourable member. If there is mischief, which the honourable member thinks is apparent in the bill, the Greens would be happy to support an amendment to remove the mischief. As I understand the situation, the honourable member has misapprehended how new section 59 will operate. He is under the misapprehension that new section 59 refers only to Independent candidates, whereas new section 59 refers to candidates, whether they are Independents or candidates of a registered party. I do not mean to personalise the matter but, for example, if the Christian Democratic Party ran candidates in 50 seats and 30 of them got 1 per cent or 2 per cent of the vote, and 20 of them got 5 per cent of the vote, when the figures are averaged the candidates may fall below 4 per cent of the vote. If the only source of funding for candidates is indirectly through the party via new section 59, which is what Reverend the Hon. Fred Nile is trying to repair, then the average would fall under 4 per cent and there would be no funding for candidates. New section 59 deals with separate funding for candidates. For example, under that section, the

30 candidates who fell below 4 per cent would not get public funding because they fall under the threshold, but the 20 candidates who received more than 4 per cent would be funded under new section 59. In this amendment the honourable member is seeking to defeat a mischief that is not apparent in the legislation.

The Hon. ROBERT BROWN [12.27 a.m.]: I am not a lawyer but I think Mr David Shoebridge is wrong in that assertion. New section 59 states that a candidate is eligible for funding and then lists a number of conditions. I am sorry but I have misread the provision. I think Mr David Shoebridge is correct. I do not think it is an error. I think the Act would probably cover the circumstance that Reverend the Hon. Fred Nile and I are concerned about.

Reverend the Hon. FRED NILE [12.28 a.m.]: I expressed my concern to the advisor; I do not want to verbal the advisor but I got the impression that new section 59 does not refer to candidates of a registered party. It refers to Independents. Indeed, with regard to the Legislative Council, new section 59 (2) (b) states, "none of whose members were endorsed by a party". It appears to make a distinction between registered party candidates and non-registered party candidates who are Independents.

The Hon. Robert Brown: It refers to the council, though.

Reverend the Hon. FRED NILE: I know it refers to the council but it seems to me that whole clause applies to Independents and that new section 57 relates to registered party candidates.

Dr JOHN KAYE [12.29 a.m.]: There is a good reason why that is the case. That is to stop double dipping. Paragraph (b) of new section 59 (2) is indeed for Independent upper House candidates, because Independent upper House candidates would be, in effect, eligible for funding under new section 57 if they were members of the party. Think of new section 57 as the replacement for what is currently the Legislative Council pot of money and think of new sections 59 and 60 as being the replacement for what is currently the lower House pot of money. The reason clause 59 (2) (b), which is specific only to a council election, excludes party candidates is because they will get funding as members of a registered party under clauses 57 and 58.

Reverend the Hon. FRED NILE [12.30 a.m.]: My concern is how the Electoral Commissioner, the funding authority, will interpret the provisions of the bill. On a plain reading of the bill, new section 59 seems to refer to Independent candidates. If I were an outsider and read this clause, I would say that it refers to Independent candidates and that new section 57 refers to candidates of registered parties. If the Minister put on record that new section 59 refers to candidates of registered parties and Independents, I would be satisfied.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [12.31 a.m.]: I think Mr David Shoebridge and the Hon. Robert Brown are correct; there is a consensus across the room. It is important that the Attorney General is aware of any comments made about this and I suggest it would be helpful if he put his view on the record.

The Hon. JOHN HATZISTERGOS (Attorney General, Minister for Citizenship, Minister for Regulatory Reform, and Vice-President of the Executive Council) [12.32 a.m.]: There appears to be some confusion and I am happy to clarify the matter for Reverend the Hon. Fred Nile as best as I possibly can. New section 57 deals with parties. New section 59 deals with persons who are not members of parties.

Reverend the Hon. Fred Nile: That is how I read it.

The Hon. JOHN HATZISTERGOS: What is the specific provision on which the member is asking for clarification?

Reverend the Hon. FRED NILE [12.33 a.m.]: New section 57 (3) (a) provides for a method that has never been implemented—that is, counting up the total number of first preference votes in all electoral districts in which candidates were duly nominated for election. That is quite specific and it applies to candidates of registered parties. It seems, on my reading of the bill, that new section 59 refers to Independent candidates, and it appears from what he just said that the Attorney agrees.

The Hon. DON HARWIN [12.33 a.m.]: If it will assist the Committee—and the Attorney General might care to clarify this—I think that is because there is now a cap being placed on the expenditure of registered political parties, and that means that the nature of funding of our campaigns in the lower House is changing. Up to this point, only the candidates in each electoral district have been reimbursed. Now something

quite separate is happening. If parties choose to spend their \$50,000 expenditure in a seat, they will also be reimbursed. So something new is being added and a rule is being applied in relation to that new thing, not a new rule being imposed on what has happened with candidates. The Minister might clarify that but I think that basically explains the origins of this new rule.

Reverend the Hon. FRED NILE [12.34 a.m.]: All I need the Attorney General to say is that new section 59 (3) (a) refers to candidates of registered parties and Independents, so that the Electoral Commissioner is clear about the provision.

The Hon. JOHN HATZISTERGOS (Attorney General, Minister for Citizenship, Minister for Regulatory Reform, and Vice-President of the Executive Council) [12.35 a.m.]: For the reasons outlined by the Hon. Don Harwin, that is the case.

Question—That Christian Democratic Party amendment be agreed to—put and resolved in the negative.

Christian Democratic Party amendment negated.

Schedule 2 agreed to.

Schedule 3 agreed to.

Title agreed to.

Bill reported from Committee with an amendment.

Adoption of Report

Motion by the Hon. Mick Veitch agreed to:

That the report be adopted.

Report adopted.

Third Reading

Motion by the Hon. Mick Veitch agreed to:

That this bill be now read a third time.

Bill read a third time and returned to the Legislative Assembly with a message requesting its concurrence in the amendment.

SURROGACY BILL 2010

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

Consideration of Legislative Assembly's amendments set down as an order of the day for a later hour.

FOOD AMENDMENT BILL 2010

POLICE REGULATION (SUPERANNUATION) AMENDMENT BILL 2010

Bills received from the Legislative Assembly.

Leave not granted for procedural matters to be dealt with on one motion without formality.

FOOD AMENDMENT BILL 2010

Bill read a first time and ordered to be printed on motion by the Hon. John Hatzistergos, on behalf of the Hon. Tony Kelly.

Motion by the Hon. John Hatzistergos agreed to:

That standing orders be suspended to allow the passing of the bill through all its remaining stages, during the present or any one sitting of the House.

The Hon. JOHN HATZISTERGOS (Attorney General, Minister for Citizenship, Minister for Regulatory Reform, and Vice-President of the Executive Council) [12.43 a.m.]: I move:

That the second reading of the bill stand as an order of the day for a later hour of the sitting.

The Hon. DON HARWIN [12.43 a.m.]: I move:

That the question be amended by omitting "a later hour of the sitting" and inserting instead "Tuesday 23 November 2010".

The Opposition is moving this amendment to the motion for one reason and one reason only. When bills go through on an urgent basis in this Parliament in one day it is the convention of this House that it is done with the concurrence of all members, and that convention is usually honoured. The Opposition most certainly objects to the bill going through in one day. The first the Opposition was told about this bill was yesterday afternoon. The first the Opposition saw of this bill was when it was introduced into the Legislative Assembly today. As the Opposition had barely seen it, it was not in a position to give an adequate response. Members of the Opposition do not believe they are in an adequate position to give a response tonight.

The Minister has moved that the second reading stand as an order of the day for a later hour of the sitting. We do not think that is acceptable. We think that allowing this procedural motion to be passed is unacceptable so we have moved this amendment so that the bill is dealt with in the next sitting week. We think that is entirely appropriate and in line with the conventions of this House as a House of review. We keep our standing orders flexible in this House of review and we are not here just to be obstructionists but we do have to have processes that work. It is not acceptable for legislation to go through this House of review in one day when a significant number of members believe they have not had enough time to consider the legislation. That is why I have moved this amendment.

Question—That the amendment of the Hon. Don Harwin be agreed to—put.

The House divided.

Ayes, 16

Mr Ajaka	Miss Gardiner	Ms Parker
Mr Borsak	Mr Gay	Mrs Pavey
Mr Brown	Mr Khan	
Mr Clarke	Mr Lynn	<i>Tellers,</i>
Ms Cusack	Mr Mason-Cox	Mr Colless
Ms Ficarra	Reverend Nile	Mr Harwin

Noes, 22

Mr Catanzariti	Mr Kelly	Mr Shoebridge
Mr Cohen	Mr Moselmane	Mr Veitch
Ms Cotsis	Reverend Dr Moyes	Mr West
Ms Faehrmann	Mr Obeid	Ms Westwood
Mr Foley	Mr Primrose	
Ms Griffin	Mr Robertson	<i>Tellers</i>
Mr Hatzistergos	Ms Robertson	Mr Donnelly
Dr Kaye	Ms Sharpe	Ms Voltz

Pair

Mr Gallacher

Mr Roozendaal

Question resolved in the negative.

Amendment of the Hon. Don Harwin negatived.

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

Motion agreed to.

Second reading set down as an order of the day for a later hour.

POLICE REGULATION (SUPERANNUATION) AMENDMENT BILL 2010

Bill read a first time and ordered to be printed on motion by the Hon. John Hatzistergos, on behalf of the Hon. Eric Roozendaal.

Motion by the Hon. John Hatzistergos agreed to:

That standing orders be suspended to allow the passing of the bill through all its remaining stages during the present or any one sitting of the House.

Second reading set down as an order of the day for a later hour.

ADJOURNMENT

The Hon. JOHN HATZISTERGOS (Attorney General, Minister for Citizenship, Minister for Regulatory Reform, and Vice-President of the Executive Council) [12.54 a.m.]: I move:

That this House do now adjourn.

BUSHFIRE HAZARD REDUCTION

The Hon. MELINDA PAVEY [12.54 a.m.]: Tonight I speak on an issue of great concern in terms of the Emergency Services portfolio, that is, the Keneally Labor Government's lack of attention and response to the Victorian Bushfires Royal Commission. Recently the Parliamentary Library Research Service issued a briefing paper on this critically important matter of hazard reduction bushfire management. I commend this report to anyone interested in this matter and compliment its author Daniel Montoya. Mr Montoya has provided an excellent overview, along with a detailed timeline on how bushfire risk reduction policy continually lags behind major bushfire events. Unfortunately, it often takes a major fire event before we properly review and adjust current practice and procedure. This is relevant as we continue to await the New South Wales Government's response to the Victorian royal commission's final recommendations. At an estimates committee hearing on 17 September 2010 the Minister for Emergency Services stated:

The Government will respond fully to all recommendations in the Victorian report and indicate which ones are relevant to New South Wales and which ones are not ...

A little later in the same hearing he said:

We will be giving a full Government response to the report fairly soon.

"Fairly soon" has come and gone and we still have not seen the report. Where is this response and why has it been delayed? At this moment I am more interested in the reasons for this delay than I am in the response itself, which I anticipate to be a minimal tinkering with existing policies, along with a bit of budgetary sleight of hand dressed up to appear as if the Government has seriously addressed the commission's findings. No doubt the La Niña weather pattern and the accompanying heavy rains, which have provided a boon for farmers, filling dams and watering crops, have reduced some of the immediate risk of bushfire in the near future. However, the Rural Fire Service has already warned that the undergrowth resulting from the rain will dry off very quickly and we are therefore by no means through the period of risk this season. When I last spoke on this matter in this place in August I said:

... according to Rural Fire Service annual reports, the Government's record is an annual average hazard reduction over 115,000 hectares between 2004-05 and 2008-09 on both private and public land. I do not have access to the figures for 2009-10 because they have not yet been published. However, I fully expect them to show significant increases as the Government plays catch-up.

It is interesting that we are now five months into the new financial year and the Government has yet to publicly produce the hazard reduction figures for last year. Although the Rural Fire Service annual report has still not been made available to the Parliament, I understand it will show that more than 170,000 hectares will have been hazard reduced in 2009-10. I applaud Rural Fire Service volunteers and hazard mitigation crews who have carried this out. By my estimate this is the greatest area cleared since the transition to the bushfire risk information system [BRIMS]—I disregard the reported figure of 178,000 hectares in the 2003-04 annual report as it included grazing.

It is clear that it is only after the intense pressure on this matter by the New South Wales Liberals, Nationals and others, including the Rural Fire Service Association and the Volunteer Fire Fighters Association, that the Government was forced to pull itself out of its torpor and try to get serious about hazard reduction. While the Labor Government will no doubt shortly issue a media release congratulating itself, defaming the Opposition and move on to its next stuff up, we need to remember that just as "one swallow does not a summer make", one season of hazard reduction does not make up for years of inaction by this lazy and incompetent Government. Assuming a figure of 170,000 hectares for 2009-10, the five-year average for hazard reduction in New South Wales is 126,000 hectares—far below the benchmark set by the Victorian royal commission.

As I have stated before, although the New South Wales Liberals and Nationals do not agree with stipulated percentage targets, we do support a significant increase in strategic hazard reduction and a very close examination of the bureaucratic inertia that has left us with such a backlog of hazard reduction in many areas of the State, and I include in those areas the Blue Mountains on the urban interface of the greater Sydney area. We have major issues with fuel loads of 20 to 30 tonnes. It is a great concern to residents in many of those communities that not enough hazard reduction has been done within the forested areas and in the strategic asset zones directly fronting many of the communities. In conclusion, I acknowledge National SES Week and congratulate all the fantastic men and women of the New South Wales State Emergency Service who give so tirelessly of their sweat and blood to keep our communities safe. As State Emergency Service Commissioner Murray Kear said today:

SES volunteers have experienced a particularly busy year, most recently with inland flooding and floods in the South-West of NSW. Across the State, our volunteers train regularly to develop the skills necessary to provide assistance in an emergency. In this, National SES Week, people can show they appreciate the volunteers' efforts by taking the time to thank their friends and workmates who are SES members.

We thank them for the work they do in keeping our community safe and coming to our rescue. The vision of the floods that tore through much of south-west New South Wales in recent weeks is testament to their efforts and the support they give to our communities.

PUPPY FARMS

Ms CATE FAEHRMANN [12.59 a.m.]: Puppy farms, or factories or mills as they are more appropriately described, are essentially commercial businesses that profit from the indiscriminate breeding of dogs under cruel circumstances. Animal welfare groups have estimated that up to 60,000 unwanted dogs and cats are put down each year in New South Wales, with puppy factories being blamed for an oversupply in the market for dogs. These factories exist primarily to provide a cheap source of animals to pet shops so that a constant supply of new puppies is available for purchase. Some also sell directly to the public through markets and by private sale.

It is difficult to believe that if consumers knew the full circumstances that led to a cute and playful-looking puppy being placed into a display cabinet on a bed of shredded paper in the window of a pet store they would choose to go ahead with their purchase. This Parliament should ensure that consumers do know how the pets they buy are bred, and that puppy factories are closed down and regulation in this area tightened. The website "Paws for Action" describes the cycle of cruelty from puppy factory through to pet store. I quote from its home page:

The known puppy farms on the Victorian and NSW border provide the animals with little food, shelter or warmth, and many die from neglect or exposure.

As soon as the puppies reach six weeks of age they are taken from their mothers to be sold through pet shops. They are usually unsocialised, and many are sick. The latter will often be killed by pet shop owners as it is cheaper than seeking veterinary treatment.

It is important to note that puppy factories also often breed purebred dogs. Buying a purebred animal does not mean that it has been bred ethically or that its parents are kept in accordance with appropriate standards. There

are a number of key problems with puppy factories. These include: overcrowding, where the dogs have little room to move and are forced to eat, sleep, urinate, defecate, give birth to and raise their puppies in the same small space surrounded by lots of other dogs doing the same; confinement, where often the animals are rarely allowed out of their cages; unsanitary conditions that lead to disease, which often goes untreated, leading to the death of the animal; indiscriminate breeding, which puts significant strain on the dogs and often leads to puppies with poor health; poor facilities, which in most cases are not purpose designed and are inappropriate to provide for the needs of the animals; lack of basic care—animals are rarely if ever bathed, have very limited access to suitable food and are commonly found in emaciated states; lack of veterinary care—because of the additional expense of veterinary care animals often suffer illnesses without treatment; and poor socialisation. As highly social animals, a failure to socialise can lead to significant behavioural problems in the dogs.

There is legislation in New South Wales that enables prosecution for acts of cruelty towards animals. This legislation is also supported by the New South Wales Government's Animal Welfare Code of Practice: Breeding dogs and cats, which was published just over 12 months ago. The code is a substantial document, with a significant portion detailing enforceable standards that have been welcomed by the RSPCA. Former primary industries Minister Ian Macdonald announced the code in September last year, highlighting that fines of up to \$2,750 could be issued for breaches of the standards and would be enforced by the RSPCA and the Animal Welfare League. In January this year the RSPCA released a discussion paper on puppy farms, which states:

Nominal efforts by operators to meet the minimum standards set by regulators make it difficult to mount a prosecution case.

The document also points to a then recent case that involved the RSPCA taking responsibility for more than 190 dogs rescued from a puppy farm, which cost more than \$110,000 over 11 weeks for board and veterinary care. Since the code was developed, the RSPCA has launched a nationwide campaign to close down puppy farms. The code so gloriously announced by the then Minister is clearly not a workable solution, and an alternative regulatory response is required. The Greens support ending the market for animals bred in puppy factories by banning the sale of dogs through pet shops and markets, and restricting animal breeding and sales to registered breeders. The joy of companion animals is a significant feature of Australian society, particularly family life. The decision to take on a companion animal should not be made while you are shopping for clothes in the local shopping centre. As a society, we should support rules that allow a more responsible level of engagement between breeders and owners of dogs, which supports animal welfare principles as a priority over profit.

ELECTRICITY INDUSTRY PRIVATISATION

The Hon. LYNDIA VOLTZ [1.04 a.m.]: Mark Twain wrote in his autobiography:

Figures often beguile me, particularly when I have the arranging of them myself; in which case the remark attributed to Disraeli would often apply with justice and force: "There are three kinds of lies: lies, damned lies, and statistics".

The report of the New South Wales Auditor-General focusing on electricity put me in mind of this quote from Mark Twain. At the moment books are being produced with great aplomb regarding the electricity privatisation debate in New South Wales. However, perhaps the authors of these books would have been well served to simply revisit the fundamentals of both the Owen report and the Auditor-General's report rather than become entangled in the soap opera of the uber egos that strut around the political process. Fundamental to the Owen inquiry was when the need for new base load would be required. Owen asserted that New South Wales needed to prepare for base load supply by 2013-14. Most of the submissions that addressed the timing for additional base load did not agree, and placed it in the period ranging from 2015 to 2020. Owen, however, argued that he needed to err on the side of caution.

When we go to the Auditor-General's report we note that the projected electricity demand in New South Wales with medium economic growth is expected to exceed supply by 27 megawatts by 2016-17. The 2010 figure is one year later than the 2009 projection, which is in part due to a 572 megawatts increase in existing generation capacity and the addition of new local generation. This figure has been pushed out every year since the Owen report was released and is consistent with the arguments of those who did not support Owen's view. Not included in this figure is at least 50 megawatts that have been generated by the solar feed-in scheme. There are 11 New South Wales non-government power stations with an installed capacity equivalent to, or greater than, 30 megawatts. Many of these are essentially peaking plants. They justify submissions to the Owen inquiry that peak demand is growing faster than base load and that base load was more a medium-term need. The year-by-year projections of the low reserve condition by national regulator Australian Energy Market Operator [AEMO] would support this. The reality is that the market already responds to where the need is.

Another argument put forward was declining revenues from the generators. In 1997, then Treasurer Michael Egan argued that the revenue from electricity was declining and that the \$500,000 received was the peak that would then be reduced. The recent Auditor-General's report notes that electricity entities accrued and paid distributions to the Government of \$1.4 billion this year, up from \$1.2 billion the previous year. These funds continue to go towards the employment of our nurses, teachers and doctors, and towards running our buses and filling holes in our roads. New South Wales continues to have a strong balance sheet and maintains a triple-A credit rating. Why is this important? It is because it underpins jobs in the New South Wales economy, and if Labor governments are about anything, they are fundamentally about the right to work. A job means food on the table and a roof over your head, and a strong, diverse economy such as in New South Wales maintains this fundamental Labor principle.

The New South Wales Treasurer is right to come into this Chamber and talk about the green shoots of recovery that underpin the ability of many around the State to get a decent job, despite those on the other side of the Chamber continuing to ignore his comments. The hypothesis about markets being more efficient, which is the Owen report implication, has long fallen by the wayside. I quote John Quiggan from the University of Queensland:

There is no reason to suppose that the investment decisions generated by private firms, under pressure to maximise short-term market valuations, will outperform those of the public sector, particularly in relation to long-term infrastructure. The global financial crisis and the failure of the hypothesis have fatally undermined the case for comprehensive privatisation.

While there are some areas where society has changed and government is no longer needed to fill the role because of a competitive market, some utilities are so vital to the health of our economy and the long-term interests of our State that governments are always going to have a hand in their regulation in some form. Providing infrastructure is what the best governments do. The global financial crisis has seen nations having to step in to the finance sector and essentially nationalise banks. The Federal Government has announced a \$14 billion National Broadband Network. How different might this have been if Telstra had been split up and Government retained the infrastructure, as some argued should occur? Of course, the world is not a looking glass.

Many people across the State of New South Wales expect the Government to provide services. An analysis of electricity privatisation should acknowledge that the people of New South Wales were unhappy with this policy. While writers may wish to get tied up in the conflict of personalities, they should try to remember that the fundamental issue for government is the best outcome for the people of New South Wales. Any government in the future that feels it is simply a matter of divesting itself of these assets should pay some heed to the many people around New South Wales who oppose this policy.

HARRY BOYLE BRIDGE

The Hon. ROBYN PARKER [1.09 a.m.]: On Saturday, Kristina Keneally flounced into Maitland for the first time since she became the Premier of New South Wales. Unfortunately, she did not come to deal with some of our lagging infrastructure. She did not come to talk to people about public transport—or the lack thereof—and congestion on our roads. She came fleetingly, for about half an hour, to name a bridge that was promised by the Labor Government in the 2003 election. In 2004 it was announced that it would cost \$30 million. It is now 2010. The bridge, which is not yet open to traffic, has cost \$65 million—a massive blowout; a 120 per cent increase—and taken State Labor more than seven years to build.

The bridge is across the Hunter River, and it provides an alternative route from areas such as Bolwarra and Lorn across to East Maitland. When the bridge is opened it will be interesting to see how much traffic uses it, and it will be interesting to see how the bridge stands up in a flood, because it is across the floodplain. Nevertheless, traffic will use the bridge and it is good to have at least one piece of infrastructure, even though there has been a cost blowout and a great deal of time has been taken to build this bridge.

A competition was held to name the bridge. It is now called the Harry Boyle Bridge, in recognition of Harry Boyle, OAM. At the celebration on Saturday there was a great deal of promotion of the naming ceremony, with flyers delivered to every household and wraparounds in the newspaper. It was a great celebration. It is a pity that there was no discussion about the cost of the bridge. It is also a pity that nothing is in place to assist the farms that have been split by this bridge. Indeed, the owners of one farm will have to take their vehicles across the \$65 million river crossing several times a week. It has been said that vehicles will travel across the river crossing at 80 kilometres an hour. However, the vehicles will have to stop to allow cattle to go across from one side of the bridge to the other because farms have been split by the bridge.

Nevertheless, I do not want to underestimate the contribution of Harry Boyle to Maitland. He was a Maitland treasure and historian, and his name will live on after the third Hunter River crossing was named in his honour. Harry Boyle, OAM, a returned soldier, farmer, writer and historian, died on 28 November 2005 at the age of 86. Harry Boyle had survived a tour of New Guinea during World War II, where he had been a secret intelligence officer behind enemy lines in Z Force. Harry Boyle was born in William Street, East Maitland. Much of his life was dedicated to recording the history of Maitland and its surrounds. He was called "Mr History". Harry Boyle held many jobs in his life. But it was his Freeman of the City accolade that he cherished most. Harry Boyle was also awarded the Medal of the Order of Australia in 1986, and he received the Premier's Award in 1993.

We look forward to the day the third river crossing will be opened to traffic. Another bridge is now open in Maitland; it is a bridge across the New England Highway. At a cost of \$3 million, that bridge has been funded to get children from one side of the highway to the other, from the suburb of Avalon. It is estimated that 13 school-aged children live in the Avalon estate, which comprises some 66 houses. The bridge is a great piece of infrastructure, at a cost of \$3 million, for those children to get from one side of the highway to the other. However, other people in Maitland are in desperate need of infrastructure. One wonders what the priorities of the State Labor Government are when it builds bridges at such cost blowouts, and it puts a \$3 million piece of infrastructure across the highway for one community but it cannot provide basic needs and services for many of the other communities in Maitland. The Government's priorities are all wrong, but that will be fixed on 26 March 2011.

PRIVATE NATIVE FORESTRY

The Hon. IAN COHEN [1.14 a.m.]: Over the last few weeks I have been receiving correspondence from Glen Allen landowners in Bombala shire. Local residents have been writing to me and the Department of Environment, Climate Change and Water about a proposed private native forestry [PNF] harvesting operation. These landholders and neighbours have expressed concerns about the compliance of the proposed property vegetation plan [PVP] for this particular harvesting operation and about the impact on the Bombala River. Many of the emails I received from concerned residents and neighbours indicated that they received no notice whatsoever of the proposed harvesting operation. Only when the harvesting areas were marked up did residents realise their neighbour was preparing to initiate private native forestry operations.

What triggered the concerns of the local community was the marking of riparian exclusion zones along the Bombala River. In response to a question on notice I asked of the Minister, the department indicated that there was a 35-metre total exclusion zone from the Bombala River. This is certainly not the distance the local residents witnessed being put in place. More important, though, is the fact that there was no assessment whatsoever of the impact of logging on downstream water users who draw water from the Bombala River. The slope of the riparian zone would also guarantee increased erosion of granitic soils and the destruction of drainage lines. The outcome, in all likelihood, would be increased sedimentation of the Bombala River.

In addition to the potential environmental degradation caused by unsatisfactory riparian exclusion zones, the proposed forester did not mark hollow bearing habitat trees or exclusion zones around rocky outcrops. The response from the Department of Environment, Climate Change and Water is that the code does not require marking, although it is advisable. To me, it appears pure fantasy to suggest that this private forestry operation maintains or improves biodiversity values. It is misleading and it is greenwash of the most farcical kind.

I raise this matter because this scenario is repeated across New South Wales. The ability of people to enjoy the natural amenity or maintain the ecological structure and vitality of land continues to be eroded by private native forestry operations that have no respect for the catchment scale-impacts of their actions. Neighbours of private native operations across New South Wales are facing a range of environmental impacts on their land, including increased erosion and water quality impacts. The codes of practice for private native forestry in New South Wales reject the notion that one shall "love thy neighbour". It gives primacy to wood supply operations over catchment-wide ecological impacts. It makes no provision for consultation or legal standing to neighbours of private native forestry operations who must bear the brunt of nuisance upon their land.

Analysis of the Department of Environment, Climate Change and Water data shows that up to 91 per cent of areas mapped as old growth forest in the comprehensive regional assessment [CRA] have been approved for logging on those approved property vegetation plans. A total of 7,898 hectares has been reassessed and made available for logging through the PVP process, and an estimated 7,787 hectares has been redefined by

the department as non-old growth and does not even require reassessment. This amounts to making a total of 15,685 hectares of old growth available for logging over the last three years. Upon presentation of this data, then environment Minister Robertson committed to an "independent" review of the process, which has not been completed and is hardly independent, with the private native forestry unit in the Department of Environment, Climate Change and Water given the task.

The proposed ecological harvesting plan guidelines further undermine the ecological integrity of the New South Wales private native forestry regime. The guidelines are an attempt by the key environmental department in New South Wales to open up endangered ecological communities for commercial logging by stealth. The guidelines ignore the whole body of scientific evidence that logging of endangered ecological communities represents a major threat to ecosystem structure and function. I find it astonishing that the New South Wales Government would further compromise its campaign to halt biodiversity loss and exacerbate the threats to our endangered ecological communities and threatened species already under extreme pressure from climate change.

We have witnessed the sight of Peter Spencer up a pole, which galvanised a new private property campaign in some New South Wales regions. We have heard members of the other place—the member for Goulburn and the member for Burrinjuck—telling rallies that they want to tear up the Native Vegetation Act. Sadly, the neighbours and local communities who have to live with the destructive native vegetation clearing activities of a small minority of landholders are not heard in this debate. There is an assumption that the debate is a cultural war between diametrically opposed farmers and environmentalists. It will be the neighbours of landowners engaging in excessive native vegetation clearing and unsustainable private native forestry neighbours in rural and regional New South Wales that will climb to protest, in much the same way as Peter Spencer did. I call on the New South Wales Government to give neighbours the right to challenge inappropriate and ecologically damaging private native forestry operations.

BANKING INDUSTRY

The Hon. IAN WEST [1.19 a.m.]: History has shown time and again that the price of money cannot be left to the whim of speculative free-market profiteers. Governments have an obligation to preserve economic stability and guard against unfettered corporate greed. Even our cultural cousins in New Zealand have demonstrated the wisdom of having a government-owned competitor, the Kiwi Bank, in the finance sector. Left to its own devices, the finance sector has shown its innate repeated tendency to abuse its important role in society.

Fourteenth-century Florence was a bastion of laissez-faire commerce, human ingenuity and political intrigue, and it lay at the heart of the Italian Renaissance. Italy's golden age of literature, art and music contributed so richly to Europe's cultural fabric that almost six centuries later Florence town is commonly cited as the birthplace of early modern Europe. Florence also, however, goes largely unknown as the birthplace of one of modern civilisation's most enduring institutions.

In what were once the seedy back streets of medieval Florentine slums one can trace the origins of today's banks. Sitting perhaps on a rickety wooden bench some distance from the city centre, carefully away from prying eyes, a group of financiers could well have been found exchanging bills, settling debts or transferring deposits. Those wilfully relegated to the grubby business of dealing with money were officially deemed sinners by the Vatican and lived in social isolation. Charging interest on services rendered was forbidden by church law and banks imposed relatively minor fees simply to survive. Merchants had little option other than to consort with them to convert foreign currency or exchange bills for trade ventures.

However much reviled by mainstream Italy, bankers remained an integral part of Europe's economic landscape. Small bankers, in particular, knew well that minor loan defaults would be enough to send them bankrupt and have them hauled off to jail with a tattered reputation. It quickly became clear that the only way to avoid bad loans and to sustain themselves was to expand their scale of operations. It was in these circumstances that the Medici family began its ascendancy to the pinnacle of Italian society and in doing so commanded levels of respect and fear rivalling that of a monarch.

Established in 1397, the Medici bank began as small-time money changers conducting business no-one else wanted to handle and quickly diversified into a large network of businesses around Italy. Often resorting to extreme violence to deal with defaulters and emanating the aura of a mafia, the family boasted a clientele of Italy's movers and shakers. By the fifteenth century its leader, Cosimo, had amassed enormous wealth on the

back of cronyism, corruption and intimidation, becoming well known as the Vatican's banker. His power extended to selecting Popes at will, making and breaking political leaders, and exerting total control over Florence's ruling council. The French invasion of 1521 exposed the Medici family and they were stripped of their authority to rule and were exiled from Italy. However, the seeds of the original banking model had been sown and it would be emulated by many others around the world for centuries.

In Australia, the depression of 1890 first shed light on the fragility of financial markets and unrestrained banking practices. Again in the 1930s, during the harshest days of the Great Depression, the sight of working people suffering as a result of private banking policies took its toll on people such as Ben Chifley and the Labor men of his generation. Chifley's sense of fair play compelled him to take on the powerful vested interests of the financial and banking industries, which he regarded as a parasitic influence on the economy and society. Indeed, at the next election the banks fought bitterly to unseat Chifley and replace him with one of their own—Robert Menzies and his merry band of corporate apologists.

William McKell's creation of the Government Insurance Office in 1926 showed just how effective a government-owned competitor could be in the murky world of financial markets. When the AMP took over the GIO, its chief executive officer, Bill Jocelyn, a previous advocate for privatisation, offered these words of insight:

There is a big argument for a government-owned organisation that ploughs the benefits back to the people who use it. It's got a lot going for it to keep the private sector honest.

Evidently there is great wisdom in hindsight.

Question—That this House do now adjourn—put and resolved in the affirmative.

Motion agreed to.

The House adjourned at 1.24 a.m. Thursday 11 November 2010 until 10.57 a.m. on the same day.
