

# LEGISLATIVE ASSEMBLY

Wednesday 29 May 2002

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**Mr Speaker (The Hon. John Henry Murray)** took the chair at 10.00 a.m.

**Mr Speaker** offered the Prayer.

## AUDIT OFFICE

### Report

**Mr Speaker** tabled, pursuant to section 38E of the Public Finance and Audit Act 1983, the Performance Audit Report entitled "State Transit Authority and Department of Transport—Bus Maintenance and Bus Contracts", dated May 2002.

**Ordered to be printed.**

## POULTRY MEAT INDUSTRY AMENDMENT (PRICE DETERMINATION) BILL

**Bill introduced and read a first time.**

### Second Reading

**Mr AMERY** (Mount Druitt—Minister for Agriculture, and Minister for Corrective Services) [10.02 a.m.]: I move:

That this bill be now read a second time.

The Poultry Meat Industry Act 1986 regulates the legal relationship between growers and processors of poultry meat. The Act establishes the Poultry Meat Industry Committee. The Act applies to chickens which are not more than 18 weeks old or another bird of a declared species, being a chicken or bird which is being or has been grown specifically for consumption as poultry meat. It is an offence under the Act for a processor to process poultry grown in a batch of 1,000 or more unless the poultry is grown under a written agreement between the processor and the grower. The agreement must be in a form approved by the Poultry Meat Industry Committee.

This provision prevents a grower from growing poultry "on spec" with the object of selling the poultry for the highest price obtainable when the poultry are ready for slaughter. A processor is also required to give notice to the Poultry Meat Industry Committee when an agreement is entered into between a processor and a grower, and when such an agreement terminates. The Poultry Meat Industry Committee has a number of other functions. These include the setting of guidelines for the drawing up of agreements between processors and growers, the approval of forms of agreement if they are in accordance with the guidelines, and, most importantly for present purposes, to determine prices to be paid to growers for the raising of poultry.

A comprehensive review of the Poultry Meat Industry Act was conducted in 1998-99. The review was undertaken to fulfil the New South Wales Government's commitment under the competition principles agreement. The review group was chaired by a representative of New South Wales Agriculture and comprised representatives of the poultry meat industry and the Government. The review group prepared and distributed an issues paper in April 1998, and followed this with a program of public consultation with public forums held in Seven Hills, Maitland and Tamworth. More than 180 submissions were received, including 32 confidential submissions from poultry meat growers.

The review group submitted a final report in November 1999. It recommended the retention of the Poultry Meat Industry Act and the facilitation of negotiations between growers and processors in determining prices and contract conditions. However, the review group recommended significant changes to the Act and to the role of the committee. The Government considered that these changes, if made, would result in instability in the industry which would not be in the interests of either the industry or the consuming public. The Government therefore decided not to support the recommendations of the review group for fundamental changes to the way in which the Act regulates the relationship between growers and processors.

The Government does, however, support some changes to the Act. These changes are mainly to simplify procedures of the committee in determining prices, but also to streamline some of the committee's administrative processes. I will deal shortly with these changes. The Act requires the committee to determine the prices to be paid by processors to growers for poultry which is covered by the Act. The committee has had a practice of determining a system by which the prices to be paid may be determined. The committee has regularly made price orders as provided by section 10 of the Act but in practice the prices which the price order sets are not the prices paid to individual growers. The current practice by which the actual prices to be paid to growers are determined is complicated.

In summary, the practice is as follows. The committee applies a model farm concept to determine an indicative growing fee which is equivalent to the average total cost of production. The parameters of this model are reviewed every three years. In addition, the model is updated in arrears every six months according to changes in the consumer price index and other costs which directly influence growing costs. A model or standard fee is determined by the committee for the six-monthly period dating from the last price adjustment day. It is this price that is approved by the Minister and is gazetted under section 10 of the Act.

Each processor negotiates with its growers a number of adjustments to the model fee so as to reflect market conditions and throughput. The price paid to growers is a result of altering the model fee by these negotiated adjustments. The adjustments are ratified by the committee or, if in dispute, can be taken to the committee for resolution. Administratively determined adjustments for market conditions and throughput are agreed between each processor and its growers and automatically approved by the committee if within a certain percentage of the cost model. If beyond this percentage then the processor must demonstrate that there had been no abuse of market power in arriving at the adjustment level.

Grower returns may be further influenced by a pooling system used to rank individual growers according to efficiency criteria, such as feed conversion ratio and mortality. An associated efficiency rating system, whereby individual growers are assigned an efficiency score per batch, also influences payments. This practice of the Poultry Meat Industry Committee in determining prices which generally are not the prices actually paid to a particular grower is well established, having been in operation for many years. However, it is clear from the terms of section 10 (1) that the practice is not in accordance with the Act. What the committee does, in effect, is establish a manner of determining a price.

Section 10 (1) requires that the price is to be determined by the order. There is no provision in the Act for a price to be determined in a manner specified in the order, for example, or for a price determined by the order, which is done with the Minister's approval, to be varied by the Committee. The bill proposes to amend the Act so as to regularise the current price-fixing practices of the industry, while still maintaining the overall control of the process. It does this by allowing the committee to determine, by order, the base rates to be paid by processors for poultry of different classes. The committee's price determination order will require the approval of the Minister before it has any effect.

Since the committee's price determination order will have effect according to its terms, including the date or dates from which it is to operate, references to a price adjustment day which are presently in the Act will be removed. There will be no requirement for a new order to be made every six months or at any other fixed time. The bill also validates the present practice of the industry of establishing payment pools for the payment of growers. The base price determined by the committee, with the Minister's approval, will be the price to be paid by the processor into the payment pool which is operated for the benefit of growers who have agreed to be part of the payment pool.

The rules for the conduct of the payment pools will determine how the proceeds of the payment pool will be distributed among growers. These rules will be required to be lodged by the processor with the committee, and any variation to the pool rules, once established, will need to be approved by 75 per cent of the growers who are in the pool. Appropriate statutory protections for payment pools, which have been absent in the past, are also included in the bill. These include the requirement for the pool funds to be held in trust for the benefit of the grower members and provisions relating to audit, payment times and interest for late payment.

Because the past practices of the industry, although long established and widely accepted by all, have not been in accordance with the Act, the bill also contains provisions intended to validate past actions of the committee in making price determinations and of processors in not paying for poultry strictly in accordance with the Act. It is, however, not all payments made by processors that were not in accordance with the Act which will be validated and in respect of which they will receive protection. Since actual payments to growers by

processors were governed by written agreements which were subject to oversight by the committee, the bill proposes that processors will be protected in regard to any payments made to growers which were in accordance with an agreement with a grower.

When a payment has been made in accordance with an agreement the payment will be validated and no action to recover any difference in price between the agreed price and what, it might be argued, the Act required to be paid will be possible. As a matter of administrative convenience, the bill also includes provisions allowing the committee to conduct its business other than by face-to-face meetings. The provisions included in the bill in this regard are the same as those that now commonly apply to statutory bodies. The absence of these modern provisions has hampered the efficient operation of the committee in the past, and the Government is pleased to be able to meet the committee's request for the law to be changed in order to permit it to streamline its procedures.

Another important change made by the bill is to amend the Act to ensure that the actions of processors and growers in negotiating a consensus on prices, and in entering into contracts in accordance with the requirements of the Act, will be specifically exempted from part IV of the Commonwealth Trade Practices Act 1974. This has been made necessary by the action of the poultry processors in making an application to the Australian Competition and Consumer Commission for authorisation under section 88 (1) of the Trade Practices Act 1974. This would have the effect of allowing the processors to negotiate collectively with their growers in relation to prices and the terms of contracts. The application purports to be made on behalf of growers but was made without the consent or support of the growers.

Part IV of the Trade Practices Act 1974 deals with restrictive trade practices. The general purpose and scope of the part can be described by saying that it contains provisions which proscribe and regulate agreements and conduct which are aimed at procuring and maintaining competition in trade and commerce. Broadly speaking, those provisions either control or proscribe the making of certain contracts or arrangements or the reaching of certain understandings. Section 51 of the Trade Practices Act 1974 provides an exception to the operation of part IV for "anything specified in, and specifically authorised by" an Act of a State. The Crown Solicitor has advised, and it seems to be generally agreed, that the Poultry Meat Industry Committee, and a member while acting as a member, is not subject to the Trade Practices Act 1974. The processors, in their application to the Australian Competition and Consumer Commission, state:

The processors have obtained a legal opinion ... which states that in complying with the requirements of the existing New South Wales Act ... individual processors and growers are at risk of contravening the Trade Practices Act.

The basis of this possible breach of the Act is not clear, but it appears from the application that it relates to the "manner in which the standard fee is set and contract conditions determined". It is by no means clear that the conduct of the growers, or the processors, in complying with the procedures of the Poultry Meat Industry Act are in breach of, or require authorisation under, the Trade Practices Act. Nevertheless, it is necessary for the Government to take some action in this regard as it has been suggested by the processors that if the authorisation applied for from the Australian Competition and Consumer Commission is granted it will no longer be necessary for the industry to comply with the Poultry Meat Industry Act.

In other words, it is suggested that there would be a conflict between the Commonwealth Act and the State Act and therefore, in accordance with the Australian Constitution, the Commonwealth Act will take precedence over the State Act. The Government believes this argument is fundamentally flawed and that any authorisation granted by the commission will not absolve the processors from the necessity to comply with the Poultry Meat Industry Act. Nevertheless, since it is clear that the aim of the processors is to undermine the operation of the Act if they can, the Government believes that the basis for any possible argument about an inconsistency between the two Acts should be removed.

Accordingly, and in order to ensure that the legislative scheme for the regulation of the industry cannot be frustrated by the processors, the bill inserts into the Act a new section, section 9A, which specifically authorises the conduct of growers and processors which is necessary for the purposes of the Act but which might be seen as being contrary to the Trade Practices Act 1974. This will render any authorisation by the Australian Competition and Consumer Commission unnecessary and ensure that the orderly conduct of the poultry meat industry is preserved. I commend the bill to the House.

**Debate adjourned on motion by Mr Armstrong.**

**GOVERNOR'S SPEECH: ADDRESS-IN-REPLY****Tenth Day's Debate****Debate resumed from 28 May.**

**Mr GAUDRY** (Newcastle—Parliamentary Secretary) [10.16 a.m.]: It is a pleasure to speak today in the debate on the Governor's Speech in opening the third session of the Fifty-second Parliament. In doing so I commend Her Excellency Marie Bashir for the open, friendly and compassionate way in which she has connected with the people of New South Wales in carrying out her role across the State. I had the privilege of attending the first visit to the Hunter by Professor Bashir in her official capacity as Governor to deliver the keynote address at the Two Bishops fundraising dinner held at Weston. Her deep understanding of the needs of the disadvantaged, her humanity, her ability to communicate, and her sensitivity were immediately apparent to all who attended that function. It made us all aware of our fortune in having such a well-qualified, compassionate person to carry out the role of Governor of New South Wales.

In her opening address to Parliament Professor Bashir noted that 2002 marks the centenary of women's right to vote in both the Commonwealth and New South Wales parliaments. It is also significant that we have waited a century for our first woman Governor, a role that Marie Bashir is filling with great distinction. In her Address Professor Bashir clearly outlined the Government's program for the final year of this term. The program will advance the Government's key objectives of modernising the State's infrastructure, promoting investment and jobs, creating safer communities, world-class schools and hospitals, and protecting our unique environment. These objectives are evident in the work of the Government across New South Wales but in no place more than in the Hunter.

Before dealing with specific examples of their implementation, I join the Governor in expressing thanks to all those involved in fighting the Christmas-New Year bushfires and supporting the families who suffered loss during the crisis. In my role as Parliamentary Secretary Assisting the Minister for Emergency Services I am very aware of the effort made in combating those bushfires. More than 450 fires were blazing, and Commissioner Koperberg led what was one of the most intensive and successful firefighting responses in the history of this State. Some 29,000 volunteers and salaried personnel were involved in the firefighting response and the recovery operation. The firefighters and logistical support personnel came from almost 50 agencies or organisations from across Australia and as far as New Zealand.

Some 1,695 firefighting units, more than 85 helicopters, 16 fixed-wing water bombers and eight fixed-wing aircraft were involved. As a result of the bushfire some 754,000 hectares of bushland were burned, 109 residential premises were destroyed and more than 7,000 head of stock were killed. An early estimate by the insurance industry puts the damage bill at approximately \$70 million. It would have been much greater had it not been for the enormous effort of our firefighting services. A parliamentary committee has since been established under the chairmanship of the honourable member for Maitland to inquire into hazard reduction burning, which is a very timely issue.

I have the great privilege of representing the people of Newcastle. With its city, its port and its industries, it is the heartbeat of the Hunter. The Government is very aware of the strengths of Newcastle and the Hunter: the skills of the work force and the excellent public education system, with our schools, universities and TAFE delivering up-to-date education at all levels. I am also aware that for some decades Newcastle has been a city in transition, with the move from a dependence on heavy industry to a much more varied economy, which has resulted in a higher level of unemployment than the rest of the State. Newcastle's move towards higher technology jobs has made it much more difficult for unskilled workers to obtain work.

On the announcement of the wind-down of BHP the Premier declared that the Hunter Advantage Fund, together with the later fund from the Commonwealth and from BHP, had very significantly assisted in the setting up of new industries in the area, particularly small industries, which are very important—as is small business—in providing employment opportunities. Recently the Hunter Valley Research Foundation issued unemployment statistics which revealed that the area is still 3 to 4 per cent above the State average. The State level of unemployment stood at 6 per cent and in the Hunter it was approximately 10 per cent. Our traditional industry base has been wound down. In 1980 BHP had 11,500 employees. In 1997, when it was determined to close down the steel making division, it was about 3,500, and there are now only about 1,000 people who work in the rod and bar division in Newcastle.

Newcastle has suffered the loss of some traditional industries, the latest of which was the closure in April of the Electric Light Manufacturing Company in Clyde Street, Broadmeadow—the only electric light

manufacturer left in Australia—with the loss of more than 200 jobs. There has also been a waxing and waning of employment in the area. ADI Ltd and Forgacs Engineering Pty Ltd have undertaken significant major defence contracts in the past several years with the virtual rebuilding of two transport ships by Forgacs and the Minehunter project by ADI. The state-of-the-art, high technology project for the six Minehunters built by ADI in Newcastle came in under budget and under time. That was a tremendous display of not only technological advancement but the high skill of the Newcastle work force.

It is significant that both ADI and Forgacs are tenderers for the patrol boats, and they have the full support of the Government and, I am sure, the Opposition. There is a great deal of concern about what I would call flack coming out of Canberra that ADI and Forgacs may not be the preferred tenderers above tenderers in South Australia, Western Australia or Victoria. The project is very important in order to continue to hold the high skills and technological advancement in the Hunter, particularly with new industries coming into the town. The Government is taking action. I referred earlier to the Hunter Advantage Fund. The Minister Assisting the Premier on Hunter Development and his Beyond 2000 committee have been working with local members of Parliament, the Department of State and Regional Development and the Hunter Economic Development Corporation to attract further business to the Hunter.

There has been a growth in call centres in the Hunter. The Roads and Traffic Authority has located its major call centre for country areas in Newcastle. Together with the former Federal member of Parliament, Alan Morris, the Lord Mayor of Newcastle and the Trades Hall Council we have exerted continuous pressure on Telstra during the past two years to ensure that it retains its call centre and operation in Newcastle in the specifically built building. It is pleasing to know that Telstra is consolidating its call centre there. Recently the Premier visited Newcastle and formally opened the Commonwealth Bank call centre. Three major call centres will now be located in Newcastle, and many others will follow.

Call centres provide flexible employment, which is in most cases permanent casual employment of short four-hour stints. At the opening of the Commonwealth Bank call centre I spoke to many young people who were training to seek employment in the expanding centre or who had transferred to that centre from call centres or information technology industries in Sydney. The Premier, my colleague the honourable member for Wallsend and I were pleased to hear that the young people were chuffed to have secured a job in Newcastle. Many of them live in the city and are pleased to have a job in Newcastle, and no longer have to commute for 2½ hours each way between Newcastle and Sydney.

We have had some success, but the Premier, his department in Newcastle and local members of Parliament are dedicated to dealing with the high level of unemployment in Newcastle and the Hunter. The Minister for Local Government, through the Department of State and Regional Development, recently conducted a tour for producers looking for locations in the Hunter to shoot commercials. We are concentrating not only on what I would call traditional industries, or even information technology-based industries, but on tourism-related industries for the utilisation of our area for the making of films and commercials.

Of course, we are not moving away from the traditional industries. The Port of Newcastle is really the heart of the Hunter, given its role in importing and exporting the product not only of Newcastle but of the Hunter Valley and any area of the State with access to the Port of Newcastle by the F3, the Pacific Highway, the New England Highway or our rail system. The Government has ensured the improvement and development of the port by investing in infrastructure to enhance access to the port.

In that respect I mention rail infrastructure improvements provided for in the last budget to facilitate heavy vehicle transport into the port and the \$1.68 million spent on the Carrington bypass to facilitate 24-hour heavy vehicle movements into the port without impacting on the residential amenity of the people of Carrington. We have a considerable way to go to complete the third stage of that project, to enable heavy transport to enter and leave the southern section of the port at Carrington without disturbing the amenity of the residents. I note the presence in the House of the honourable member for Dubbo, who was the western representative on the Newcastle Ports Corporation. He would be well aware of the importance of this port not just to the city but particularly to regional New South Wales.

I note also the enormous amount of attention given by the Premier and the Government to the continuation of high-quality steel making in the Hunter. Three groups in particular have been promoted and assisted—Protech Steel, Hunter Specialty Steels and the Austeel Corporation—to establish high-quality steel making facilities in the Hunter. I note the very recent announcement by Minister Refshauge, as Minister for Planning, of approval for the new Protech steel mill, a \$1.8 million project on Kooragang Island. The first part

of the project will be construction of a \$650 million cold mill facility, creating 365 direct jobs and 700 construction jobs. That facility, which is important in providing jobs for steel makers, will also employ high technology and clean technology to produce up to 520,000 tonnes a year of coated and painted carbon steel products for the Australian building industry. That will be a very important asset for the city. [*Extension of time agreed to.*]

It is important to emphasise that these new developments have very stringent environmental conditions placed upon them. They include stringent air quality limits for pollutants such as hydrogen chloride, nitrogen oxides, heavy metals and particulates, as well as regular strict monitoring for air pollutants. Protech must undertake a lot of upgrading of the area. Strict noise limits are imposed. An annual environmental management report is to be made. All environmental management and performance documents must be made available to the public on request. It is most important to the Hunter community that modern industry developments in the region be required to adhere to the strictest environmental standards, and that comprehensive environmental impact statements be available not only to the public but also to government departments to ensure adherence to those environmental standards.

I mention also the recent visit of the Premier at the opening of the much-needed expansion of Port Waratah Coal Services. The spending of \$330 million on that project will enable the export of up to 90 million tonnes of coal a year from the port. We already have the major coal export port in the world. The launch of further developments took place on that day. The Premier, along with the Federal Minister for Science, Mr McGauran, launched the \$35 million CSIRO Energy Centre at Steel River. That centre will focus on more efficient, competitive and cleaner energy systems and provide further impetus for the Hunter to become the leading sustainable energy industry centre in Australia. The Hunter already has a deservedly good reputation in that respect.

I pay tribute to the Australian Municipal Energy Improvement Facility at the Newcastle City Council for its leading-edge environmental auditing and the work it has done to make Newcastle the most energy efficient council area in the world. I note that this year the council received a United Nations award for its work on energy. The CSIRO Energy Centre enhances the opportunity to link with the Centre for Coal Research at the University of Newcastle and the BHP minerals research section to form a synergy in conservation and use of energy that will make Newcastle and the Hunter the energy resource and industry development centre for the whole of Australia. That is a direction that is fundamental to our future.

I should mention at this stage the progress that has been made in the past decade by the Honeysuckle Development Corporation, which will celebrate its tenth anniversary on 29 May 2002. The Honeysuckle Development Corporation, utilising funding from the Building Better Cities Program, has really started to transform the Newcastle CBD and inner-city areas. This is a fantastic city with a heritage core, surrounded by enormous national parks and heritage areas, and enhanced by wonderful beaches and an active harbour. Through the Honeysuckle program we are seeing the rebirth and revitalisation of the city. I pay tribute to the instigator of the Building Better Cities Program, former Deputy Prime Minister Brian Howe. This was a visionary program, and the selection of Newcastle was a great choice. The Federal Government allocated \$71 million from the Building Better Cities Fund and the State Government gave some \$29 million towards that revitalisation program.

I pay tribute also to former Coalition planning Minister Mr Robert Webster, as well as planning Ministers Craig Knowles and Andrew Refshauge for their enthusiastic support of the Honeysuckle Development Corporation and the work that has been done in Newcastle in that regard. I would like to give the House an idea of the work carried out since the inception of that program. Some \$25 million has been spent on affordable and special needs housing in and around Newcastle, not just on the site. That includes aged care housing in Carrington, affordable dwellings for low-income earners in Hamilton, Tighes Hill, Maryville and Wickham, as well as some affordable housing in the new Linwood Village area. The award-winning Linwood Village estate has been built on the banks of Throsby Creek where the old wool stores were formerly situated. Visitors to Newcastle are quite astounded at the quality of the development that is occurring along the Newcastle foreshores, providing quality housing right on the harbour with access to a full range of city services and employment opportunities.

Other Building Better Cities projects in Newcastle include the Cowper Street bridge at Carrington, 4.5 hectares of parkland and seawall restoration at Throsby Creek, establishment of the bus-rail interchange at the Newcastle railway station, the beautification and landscaping of Hannel Street and main streets in Tighes Hill and Carrington, and student accommodation in the former Wickham Public School. Since 1988 the corporation

has marketed and sold 32 sites and has become self-funding as a result. Development that is either under way or completed is now worth well over \$300 million and includes the Crowne Plaza Hotel—a Beckton hotel—which provides 4.5 to 5 star portside accommodation in 175 all-suite rooms, a new conference facility and business accommodation—so desperately needed in Newcastle. The hotel will bring 250 jobs to Newcastle.

Last year when Newcastle hosted the Masters Games, the Newcastle and Hunter Events Corporation did a magnificent job in housing the athletes and spectators. However, it was very evident that the area lacked top-level hotel accommodation—a situation that has been addressed by construction that is under way on the harbourside area. In the company of the Deputy Premier, Minister for Planning, Minister for Aboriginal Affairs, and Minister for Housing I attended a ceremony to mark the turning of the first sod for the Boardwalk development, which will include cafes, restaurants and shops at ground level.

The development will be surrounded by public domain and a new Harbour Square for the people of the region, with residences and offices above. Commercial development that is being brought to the foreshore area includes the first private sector commercial building construction, the \$30 million Honeysuckle House, which will be occupied by Sparke Helmore, a Newcastle law firm. The development will be the first A-grade office building in Newcastle since the construction of the Telstra building some years ago.

The transformation of inner Newcastle City areas began with the initial \$100 million investment in infrastructure by the Federal Government and State Government. As result, 1,400 temporary jobs have been created and there has been a \$350 million infusion into the lower Hunter economy. The Hunter Valley Research Foundation estimates that upon completion in 2013, these magnificent projects will have contributed \$976 million to the economy of the region and will provide Newcastle with 3,000 new residents, 3,000 temporary jobs and 5,000 permanent jobs. Although people thought that the redevelopment projects were very slow to begin, in common with most developments, the private sector took quite a while to capitalise on the initial government investment in infrastructure. Since then, commercial investment has rapidly increased.

One of the major underpinnings of Newcastle's successful future is its education system. Last Thursday on Public Education Day it was my privilege to represent the Minister for Education and Training, Mr Watkins, at the Hunter Institute of TAFE awards ceremony. No greater evidence of the quality of public education is imaginable than that provided by the awards presented on that occasion. Public education facilities in my electorate include 15 infants and primary schools, three special purpose schools for students who are physically or intellectually disadvantaged, five high schools, four of which are specialist high schools, three non-government high schools, the Hunter Institute of TAFE and the University of Newcastle. The current 53,512 enrolments at TAFE represent an increase of 16 per cent over the past four years. One person in 10 in the 15 to 64 age group attends TAFE in the Hunter region and there has been a 30 per cent increase in traineeship enrolments.

As a leading provider of education in my electorate, TAFE facilitates connections to business and industry which are essential for the transition of a formerly heavy industry area to an area characterised by a mix of a whole range of technology and commercial enterprises. The State Government is acutely aware of the need for improved teaching and learning conditions in public schools and has allocated \$257 million for school capital works and \$157 million for maintenance. I am pleased to announce that \$1.47 million in additional funding has been granted for essential repairs to improve floor coverings, fencing around schools and painting. The Government's allocations of funds have been very well received and I know that the Government is dedicated to the improvement of facilities in all schools throughout the State. It has been my pleasure to participate in the Address-in-Reply debate. I express my appreciation of the Governor's Address and commend her for the way in which she carries out the role of Governor of New South Wales.

**Debate adjourned on motion by Mr R. H. L. Smith.**

## **DRUG SUMMIT LEGISLATIVE RESPONSE AMENDMENT (TRIAL PERIOD EXTENSION) BILL**

### **Second Reading**

**Debate resumed from 8 May.**

**Mr COLLINS** (Willoughby) [10.48 a.m.]: I lead for the Opposition in this debate on an extremely serious and controversial issue which has perplexed all members of Parliament for a very long time. At the outset I make it clear that this is one of those rare occasions when the Opposition will determine its attitude to the bill by a conscience vote. I make that announcement on behalf of the Leader of the Opposition.

**Mr E. T. Page:** You are all going to abstain, aren't you?

**Mr COLLINS:** Why don't you just shut up for a moment and listen? The honourable member for Waverley—

**Mr E. T. Page:** Coogee. You are 10 years out of date.

**Mr COLLINS:** This level of interjection from the honourable member for Coogee is not helpful to this debate. If the honourable member wants to mix it like that I will give as good as I get every second of this debate. It might behave him to listen for a while.

**Mr SPEAKER:** Order! The honourable member for Coogee will refrain from interjecting. I ask the honourable member for Willoughby to address his remarks through the Chair.

**Mr COLLINS:** Thank you, Mr Speaker. I do not regard this as a matter that warrants any flippancy or asinine comment from any member of this Chamber. The honourable member should listen to what I have to say and he might then have something to say a little later in the debate. I take this matter seriously. It is not a matter that invites the usual parry and thrust that is seen in this Chamber. If the honourable member for Coogee, any other Government member, or any other member of this House wants it that way, so be it. This is one of the important issues that this Chamber can debate. I said earlier on behalf of the Leader of the Opposition that the Opposition will have a conscience vote on this bill. I commend the Leader of the Opposition for that. It is a sign of his determination to try to deal with a sensitive issue in an intelligent manner.

Members on both sides of this House have strong, sometimes entrenched, views on this issue. Some honourable members on both sides of the House are implacably opposed to this Government initiative. Other honourable members are prepared to say, "Let us look at the evidence, let us monitor progress, and let us try to determine whether some progress is being made with this initiative." It is very much within that framework that I make my comments. First, I shall remind the House of the background I have that frames my comments.

I served on the select committee on prostitution which was established by the Wran Government in the mid-1980s. The committee's report—one of the most useful, comprehensive and definitive reports on that complex issue—involved, amongst the other issues that were examined, drug use by prostitutes. The committee attempted to determine what could be done to minimise drug use. Mr Speaker, you were also a member of that committee. That committee's report is one of those benchmark reports of which this Parliament can be justly proud, despite the sneering and cynicism at the time the report was put together. The report stands as a benchmark report not just for this Parliament but for any Australian parliament. It is one of the best and most definitive works done on that complex issue.

I went on to serve as Minister for Health and as Minister for the drug offensive from 1988 to 1991 and, subsequently, as New South Wales Attorney General in the Greiner Government for a year. Since then I have had even more daily contact with this issue as someone who bought an apartment in Macleay Street, Potts Point, within walking distance of the medically supervised injecting centre. I see it and I see those involved with it on a regular basis. So I have a political perspective, a ministerial perspective, and a personal perspective. It is within that framework that I make the comments that follow. I do so knowing, as somebody who served as the State's Health Minister for three years, that a drug treatment lobby has to deal with the problems of drug abuse. It has to try to come up with answers to an intractable problem which has plagued and ravaged our society for the past three or four decades now.

Again, by way of establishing a framework for the debate which will follow, I have noted the media reports in the past few days which talked about the number of hard drug users in Australia. I am happy to be corrected if there are official statistics to counter what I am about to say, but, interestingly, the use of hard drugs such as heroin in our society seems to be fairly constant. Indeed, there is some suggestion that there may be a marginal downturn—and let us not take false hope from this—in the use of some hard drugs. Drug use and hard drug use in our society seems to be at a fairly constant level. Mr Speaker, when you and I served on the prostitution committee of this Parliament more than 15 years ago I believe we were then told that the number of regular hard drug users in New South Wales was about 10,000. There was obviously some turnover in that because there were drug deaths.

The figures published in the past week would suggest, when we break them down from the national basis, that the numbers are still pretty much the same. That reveals that the issue is not over, that the strategies



employed are neither out of control nor defeated, but that they have not been successful. In other words, it could be said that hard drug use is being contained with an array of strategies, but that may be small consolation for those families ravaged by hard drug use and the social and criminological consequences that follow. In other words, there may be little consolation in the fact that there are 10,000 hard drug users in New South Wales. The question for us is what we, as a Parliament, can do to contain, reduce and preferably eliminate the problem, which is the context for this debate.

An interim report has been released by the Government and by the Special Minister of State. The 12-month process evaluation report on the medically supervised injecting centre was released since the Government gave notice of this debate and of the proposed extension of the evaluation period. That report, which I think has been made available to all members of this Parliament, does not, in my view or in the view of anyone else, contain definitive answers. It does not provide cast-iron solutions or guarantees. In commenting on the release of that interim assessment, the *Sydney Morning Herald* said that the report is not conclusive. It also said that the release of the assessment represents a "turn for the calmer" in the history of the injecting centre.

I hope there will be calm debate on this issue. The article made the point that during the first year of the injecting room in Kings Cross there were about 250 overdoses but no-one died. There is some suggestion, though, that drug deaths may have occurred elsewhere after drug users left the injecting room. I am unable to substantiate that at this time, but I have anecdotal evidence that that may have been the case in some instances. But that alone is not a ground for terminating the centre. The *Sydney Morning Herald* editorial of 27 May is hopeful and optimistic in tone. It reads:

There has been no jump in loitering, no expansion of drug-related crime and, contrary to the fears of local business, visitors seeking non-drug recreation at Kings Cross have increased.

That may be a little too optimistic, because anyone who walks through Kings Cross with their eyes open can see a range of activity that should attract the attention of the New South Wales Police Service and should result in action being taken for the many small drug deals that appear to be done on the street in broad daylight every single day of the year. Anyone who lives in the Kings Cross area, or has cause to frequent the area, can find heaps of evidence of low-level drug deals being done on the streets of Kings Cross in broad daylight. The Government should take little heart from the fact that such activity continues. It is an endemic problem, and I will come to what might be done about it in a moment. The *Sydney Morning Herald* editorial continues:

But why schedule the trial's final report beyond the March election? It raises suspicion the NSW Government either expected a horror or lacked the courage of its conviction. Either way, it should have had more faith.

The *Sydney Morning Herald* makes the point: Why schedule the final report beyond the March election? As has been suggested to me by a vast array of people, including many members of this Parliament, is it an attempt by the Government to kick the ball over the dead-ball line? Is the Government attempting to push this beyond the State election because a full and comprehensive disclosure of all the figures will not sit comfortably with the people of New South Wales or with us as legislators. Why push it beyond the State election if it is so successful? If it is working so well, why push it beyond the State election? If this is an attempt to shut down debate on this issue, let me signal now it will not shut down debate on the issue, it will only intensify it and, as the *Sydney Morning Herald* editorial suggests, add to suspicion about the Government's motives in attempting to push it beyond the State election.

My personal response to the bill is that a six-month extension of the trial period should not be opposed, in order to provide more time for data to be accumulated and assessed. I do not put that view forward gratuitously or with great comfort, but I do so in this context. When I was shadow Minister for Health in the period 1986 to 1988, the then Labor Government introduced a needle and syringe exchange program. At that time I strongly opposed the introduction of the program on the basis that it sent the wrong message to the community. How could a government provide needles to hard drug users and at the same time seek to stop illegal drug use?

However, I have had to eat my words. The fact is that that program has been one of the most successful programs in the world at preventing the spread of HIV-AIDS through intravenous drug use and it has also been extremely helpful in stemming the spread of hepatitis C. I acknowledge and place on record that it has been an outstanding, world-beating program. It is possibly an example of the sort of guerrilla warfare that is sometimes needed to overcome public health issues. It is an unconventional way of attacking a problem that would otherwise have taken many thousands more lives. The needle and syringe exchange program has been very successful, although I suggest it is not beyond criticism. Indeed, I think it can be criticised for some of the reasons that this new program can be criticised. In many respects the needle and syringe exchange program has been simply a needle distribution program. In many cases the needles have not been given back but have been left in children's playgrounds, on beaches and in parks.

A further criticism of the needle and syringe exchange program is that it has often been operated from centres that have been established in main streets. When I was health Minister I had a constant battle—and I am sure the current health Minister faces a similar battle—with drug treatment facilities being set up a couple of doors down from McDonald's, Pizza Hut or KFC, as if they were a normal, day-to-day lifestyle choice. Indeed, those facilities were dealing with one of society's toughest problems, which should not be treated as just another lifestyle choice. We as legislators are trying to stem this form of behaviour and all of its antisocial and criminal consequences. So I believe the battle continues.

As I have said, the needle and syringe exchange program was successful. The question to be asked is: Is this initiative of the Carr Government, the medically supervised injecting centre, going to work? I think it is fair to say that the jury is still out on this issue. I read with interest the 12-month evaluation report. We receive it, we should take it on board, but do we take it as a definitive answer? I think not. Only an exceptionally brave and foolhardy government would suggest that we have jumped all the hurdles, the race is over, and the initiative is firmly entrenched and will be followed across the State and across the nation. A number of issues need to be dealt with.

In recent weeks the Government introduced a further report that is at odds with the interim report that is the principal focus of today's debate. I refer to the report entitled "Cabramatta. A Report on Progress". We have the Carr Government trying to get the drug situation under control in Kings Cross. Let us be blunt about this. We are not attacking the motives of the Government in trying to tackle the issue; we are simply questioning the methodology and the progress to date. When one contrasts that progress report with a progress report on Cabramatta, there are some interesting comparisons to be made. In Cabramatta there is greater law enforcement, there are more police on the beat, and there is an extremely proactive anti-drug strategy to try to control the criminal consequences attached to the drug industry that has riddled Cabramatta.

We do not think the battle is over in Cabramatta by any stretch of the imagination. But a comparison of the Cabramatta report with the report that is the focus of this bill reveals some interesting contrasts. For example, we do not find out in the report that is the focus of this debate how many needles have been dispensed in Kings Cross. However, we know that the number of needles dispensed in Cabramatta has dropped dramatically. Compare the period October to December 2000, when more than 194,000 needles were distributed in Cabramatta, with the period October to December 2001, when the Government was trying to get on top of out-of-control crime in Cabramatta, and when just over 46,000 needles were distributed. About one-quarter the number of needles handed out in that period in 2000 were distributed 12 months later.

Firearms amnesty statistics have been produced as evidence of a great crackdown in Cabramatta. More than 5,700 firearms were surrendered between July and December 2000, and a year later, between July and December 2001, 72,000 were surrendered. Other crime statistics in the Government's report show that motor vehicle theft was down 37 per cent in Cabramatta, while the New South Wales trend was steady and unchanged. Stealing from a motor vehicle was down 24 per cent in Cabramatta while the trend in New South Wales was steady and showed no change.

Overall statistics for Cabramatta show a remarkable reduction in drug-related crime, yet that area lacks the supposed benefit of a medically supervised injection centre. A major crackdown on crime in Cabramatta has had an impact on some crime statistics and on needle use and therefore on drug use in the area. Drug-related deaths and ambulance call-outs in Cabramatta have decreased, but we are not privy to comparable figures for the Kings Cross area, where the medically supervised injection centre functions. Nor are we given any figures on the overall number of heroin deaths in New South Wales.

The questions that members of this House have to ask themselves in this debate are not simply about how many people use the injecting rooms in Kings Cross and how many of them die. A very neat and positive set of figures could be produced from that little showcase. There could be 100 per cent success in the medically supervised injecting centre but an abysmal death rate from hard drug use out on the streets for those who do not use the injecting rooms. The percentage of heroin users using the injecting centre could be as low as 3 per cent. If only 3 per cent of hard drug users, who inject heroin and cocaine, are using the injecting rooms, and 97 per cent are not using the injecting rooms, how much is our society benefiting from a very expensive and well-staffed showcase operation in Darlinghurst Road, Kings Cross? If no deaths occur among the 3 per cent of hard drug users, those using injectable drugs, who use the injecting rooms, how valid are those statistics and how warm should we feel as legislators that this program has been a great success and is the best way to use taxpayers funds to achieve a change in those who sadly have fallen into the drug culture in New South Wales? Those are the sorts of questions we need to ask ourselves.

The Government has to start taking seriously some of the counterclaims being made. The Government's response to the Kings Cross Chamber of Commerce and its attempt to put a contrary view to that put by those who run the injecting rooms and want to make the program work has been contemptuous and dismissive. Those shopkeepers and business owners in Kings Cross have said they do not think this is the way to do it, and the Government has to listen to what they are doing and not treat what they are doing with complete and utter contempt. They have opinions, and they are stakeholders. They have run businesses there for years. They want to stay in the area, serve the public, run profitable businesses and see the area improve. I call on the Government to change its attitude to local residents and to critics of this scheme. Some will be implacably and perhaps blindly opposed to the whole concept that the Government is trialing in Kings Cross, but they have valid points to make. I can assure the Government that if this proposal is ever replicated anywhere else in the State, it will have the same or greater avalanche of complaints and objections to what is being done.

One point on which I agree with those local business operators is that the placement of this injecting room slap bang in the middle of Darlinghurst Road in the middle of Kings Cross, just opposite and down from McDonald's, could not be more provocative. This is a real attempt to say that the taking of drugs is a mainstream lifestyle option. The placement could not be more provocative. The argument I had with those who ran drug programs when I was Minister for Health—and I challenge the current Minister for Health in the nicest possible way to enter the debate on this point—was that no matter what the Minister said, those who ran these programs kept putting them in mainstream locations. That is what happened in this case. If this project was being run out of a hospital or hospital facility, if it was being treated purely as a health initiative rather than a social engineering initiative, the program would be seen from a different perspective. Not everyone agrees with the program, but its location is most provocative. This issue has brought local people out onto the streets and made many people angry who need not have been made angry.

I will pose a few questions about this Carr Government's initiative for consideration during the debate. The public think that the Government is officially condoning or acquiescing in the illegal use of hard drugs. Heroin and cocaine are the drugs injected by regular users of the injecting rooms. Secondly, this initiative is a radical departure from international practice. This is not being done throughout the world. We are not some sort of backwater on this issue. There is no parallel for this initiative in the United Kingdom, the United States, Canada, or most states of the European Union. The only countries in which we can find any parallel or replication are the Netherlands and Sweden, which have always been well ahead of the pack with social engineering. The question is: Do we think we are the Netherlands or the Sweden of the south? We are Australia, and we will mould our own lifestyle, values and culture. I make the point that this is a radical departure from international practice, and that has been commented on by many and even by the United Nations. United Nations bodies indicate that this is a radical departure from international practice.

This is a potential misallocation of funds because a very large amount of funding is being concentrated on very few people. There may be a superficially positive result with no deaths among the 3 per cent of hard drug users who use the centre, but at what expense? Is this funding not being spent on other drug programs or in other areas? What about the other 97 per cent of hard drug users who are not using the injecting rooms? Are we legislators and parliamentarians, working on behalf of taxpayers, getting the best value for their money? Is this the most effective way to spend scarce drug program dollars, or are there better ways of doing it?

I am neither a doomsayer nor a do-gooder, but this issue comes down to whether the program works and to the message it sends to our society. The Government is treading a very fine line. This is a guerrilla warfare health program. It has some parallels with the needle and syringe exchange program, but this time the Government is turning a blind eye to and condoning hard drug use. Like many members of this House, I am far from convinced that this measure is necessarily the best way to spend precious resources allocated for programs to stem and eliminate the use of hard drugs in our society.

It might be suggested that the program is capturing all intravenous drug users, that they all used the injecting centre, that they can fall back on paramedical people on site who could come to their assistance in the event of an overdose, and that all hard drug users are being funnelled through the centre. However, the Government is not claiming that, and the report is not claiming that. One must bear in mind that this report potentially covers only 3 per cent of hard drug users in the State. What about the other 97 per cent? Even if the centre funnelled everybody through, and even if it did prevent most deaths, one would still need to be careful about this initiative. Why? Because when any government condones, or is perceived as condoning, hard drug use, that sends a message to our society that many believe, as I do, is the wrong message.

People cannot use hard drugs and expect a positive outcome. The message must be that hard drug use will have dire consequences. The Government must do everything within its capability to eliminate hard drug

use. I do not surrender, and I do not think Parliament should surrender, to those who say, "The battle is lost. There is no point any more. We should go down the legalisation path." I do not accept that. And I do not accept it because, on the Government's own Cabramatta report, when a government attempts serious policing some inroads can be made. Contrast the Cabramatta report with the report now under discussion.

I am not saying that the Government or society is out of the woods with the problems confronting Cabramatta. However, some statistics show that with huge additional policing resources some inroads can be made. I open for the Opposition with those preliminary comments. There will be a conscience vote on the bill. I am pleased that I have been heard in silence by honourable members on both sides of the House. I appreciate that courtesy because this pivotal issue is one of the most serious that this Parliament can ever debate. Hopefully, the whole debate will reflect that spirit.

**Mr McGRANE** (Dubbo) [11.25 a.m.]: I oppose the bill. I listened intently to the honourable member for Willoughby, and I take on board the points he made. However, I am not quite sure which way he will vote, although he said there will be a conscience vote. I thought he said at the beginning of his contribution that he would support the Government's bill to extend the trial for six months; in the latter part of his speech I thought he said he was opposing the bill. Be that as it may, I am certainly opposing the extension of the injecting room trial for six months. It sends the wrong message to the people of New South Wales and Australia.

It is a known fact that hard drug users administer the drugs to themselves within a short distance of where they purchased the drugs and within a short time of purchasing the drugs. As the honourable member for Willoughby said, the injecting room is probably catering for only 3 per cent of the unfortunate people who are hard drug users. That means that this establishment does nothing for the other 97 per cent of hard drug users in New South Wales, apart from sending the wrong message. Drug problems are associated not only with large cities and coastal areas; they are also associated with country New South Wales and, indeed, Australia. In the past 11 or 12 years hard drug use has increased in country areas.

Before I entered Parliament I was the mayor of the city of Dubbo. I was very concerned about the use of drugs in Dubbo so I set up a community drug task force. During the last four years that I was the mayor we had extensive consultation with people involved in the care and rehabilitation of drug users. We also had a committee made up of all sectors of the community, from the various churches and community support groups to the youth of the city of Dubbo. There is no short answer to the drug problem, as has been indicated this morning. I think it is a whole-of-community problem, and we must have a whole-of-community approach to solving it.

I do not think having an injection room in one place in Australia is the way to go. As I said, it simply gives the wrong message to people who are involved in the drug scene. The honourable member for Willoughby said that there is no role model for the Kings Cross injecting room, but I do not think that the Kings Cross injecting room has been set up as a role model for other parts of the world. He said that only two other countries have this type of centre, and that is a known fact. Recently, in the past two weeks, I was in the United Kingdom. The only Australian news we got there were stories about the Kings Cross injecting room model on television over two nights and in other forms of news media.

The debate in the United Kingdom is similar to our debate, but its politicians are firmly against establishing a trial injecting room. The honourable member for Willoughby said that other countries are ahead of the pack in solving drug problems. We should be the leader in approaches to solving the drug problem in our State, our country and the world. Drugs are the biggest problem facing the world today. A number of problems affect the world—for example, terrorism—but drugs are the main problem at every level of society today.

A whole-of-community approach should be taken to solve the drug problem. We have had an injecting room in one place in New South Wales for a trial period. We have received an interim report on the 12-month trial. I suggest that if the trial were to be extended for another six months we would not get a different answer from the one we have obtained. A lot of people more involved than I in solving the drug problem have not arrived at a clearly defined answer. The trial was worthwhile, but it has not helped to solve the drug problem in New South Wales. The trial has done nothing to solve the drug problem in rural areas. A lot of the money spent on the trial could have been spent throughout New South Wales. I oppose the bill.

**Mr GAUDRY** (Newcastle—Parliamentary Secretary) [11.32 a.m.]: I support the Drug Summit Legislative Response Amendment (Trial Period Extension) Bill. This ambitious trial came out of the recommendations of the Drug Summit, to which the Government set up a comprehensive response. As the

honourable member for Dubbo would be aware, that led to a range of increased funding for existing drug-related services, a change in the way in which methadone treatments were made available and managed, the introduction of naltrexone as a treatment option, the establishment of the Drug Court system and, as recently as this year, the roll-out of the Magistrates Early Referral into Treatment [MERIT] program. The trial injecting room was one of a comprehensive range of approaches taken by the Government. It funded and made policies and programs to deal with, as the honourable member for Willoughby pointed out in his speech, what is not a new issue in New South Wales.

In the late 1960s or early 1970s Michael Transfield, a young poet and academic at the University of Sydney, died from a heroin overdose. I was shocked that that type of drug was commonly available at the time but, of course, since then there has been a massive expansion in the use of heroin and other vicious drugs in our society. The medically supervised injecting room trial was a controversial issue but the majority of people who attended the Drug Summit—Government, Opposition, members of the community, specialists in the field of drug use and rehabilitation, and non-Government organisations—agreed that it should take place. The initial trial was for 18 months and to be reviewed by an independent body. The independent evaluation committee will deliver its report in April 2003.

The bill will make only a technical change to give that committee the opportunity to present its report and to give the community and the Parliament an opportunity to fully review and debate the report before a change is made. That is an eminently sensible approach based on the interim report of the evaluation committee. The committee did not come up with definitive conclusions at the end of the interim period, as the honourable member for Willoughby said. In relation to such a serious issue it is eminently sensible to allow the trial to proceed, to allow the evaluation committee to hand down its full report, and for the community and the Parliament to have the opportunity to absorb and debate its findings. As the honourable member for Willoughby said, this is an extremely controversial and serious issue. It is critical to determine where this matter goes and we should have the full benefit of an extended trial.

To date, the trial injecting room has reported that there were 2,729 registered clients and 250 overdoses. Therefore, because of the available trained medical staff 250 lives were saved. There were 446 referrals into drug treatment, which could be contrasted with what occurs on the streets. I do not think it is relevant to contrast this matter, as it is not comparing apples with oranges or the Cabramatta inquiry. We want to check the efficacy of this specific project as a method to save lives and to set up a structure to refer clients. The evaluation committee's conclusions in relation to the medically supervised injecting centre are that its operation continues to be feasible—not exactly definitive—that its service is acceptable to the client group and that it brings forward the characteristics of the client group which indicates that they are representative of Australian injecting drug users, the majority of whom are male and aged in their early 30s, began injecting drugs in their teens, are mostly unemployed and have not completed tertiary education. There is a high lifetime prevalence of overdose.

Female clients are more likely than male clients to have entered treatment in the 12 months prior to registration. The centre appears to be regularly engaging clients in relevant interventions. One in 31 visits results in a referral to other services, which suggests that it is meeting its objective of being an interface to the drug treatment, health and social welfare systems. None of those statements by the evaluation committee could be said to be conclusive. Certainly they are not statements upon which the Parliament would want to make a definitive answer to the Drug Summit's recommendation that there be a supervised injecting room trial. The community and the Parliament will have the opportunity to fully evaluate this trial before the Government makes a decision on whether this method of intervention in drug use is a pathway down which it wishes to go. I look forward to hearing further contributions to this debate. I commend the bill.

**Mr SOURIS** (Upper Hunter—Leader of the National Party) [11.40 a.m.]: I lead for the National Party on this bill, which essentially will extend the operation of the Kings Cross shooting gallery for a further 12 months. I have no doubt that one of the motivations for the Government presenting the bill is deferral of the decision on whether this facility will become a permanent facility to a time beyond the next election, taking advantage of an opportunity to hide behind what it has conveniently called a trial and an extension of a trial—as if to imply the Government did not really have a predetermined intention other than to genuinely conduct a trial, evaluate outcomes and genuinely leave all options open before in due course making a decision as to the future of this shooting gallery. I have no doubt whatsoever that the Government intended, from the very first speech delivered at the Drug Summit in 1999, to establish a permanent shooting gallery.

Coalition members are afforded a conscience vote on this issue. I point out that the National Party in its entirety will be voting against the bill. The Labor Party should match the Coalition's position and afford its

members a conscience vote. Not all members of the Labor Party have a rigid, uniform view according exactly with that of the Premier. I know that many Labor members, in good conscience and genuine belief, are vehemently opposed to the existence of the shooting gallery and therefore are equally opposed to any extension of this so-called trial or the permanent establishment of the shooting gallery. The National Party is opposed to any relaxation of the laws regarding illicit drugs in this State. It is opposed to the legalisation of shooting galleries, the decriminalisation of self-injection of heroin and the decriminalisation of the geographic area surrounding an established shooting gallery. Labor's heroin injecting room is another example of how far out of touch with the community the Carr Government is. I know, from observing opinion polling generally on this topic, that a substantial majority of the community are opposed to decriminalisation and liberalisation of this awful scourge of using heroin.

The international Narcotics Control Board recently called on Australia to close down the Kings Cross heroin injecting gallery. I place a great deal of store in the fact that an international body of that calibre would make such a call, particularly as it followed the experience of observing for a reasonably substantial period the operations of the shooting gallery at Kings Cross. The United Nations body said that the injecting room and the Government which allowed it to open condoned illicit drug trafficking. That is my view as well. I agree with that observation of that United Nations organisation. There can be no other interpretation in the minds of young people who have not become involved in the drugs scourge than to contemplate that this is a Government-sponsored heroin injecting room, that this is a decriminalised activity, that drug peddlers by definition must be allowed to operate in the area, and that the Government knows full well that those who use the shooting gallery have acquired illicit drugs on the black market. I cannot accept that the Government would stand before the people and say that it is prepared to condone the obvious interpretation that young people must be making in relation to this shooting gallery.

It is the National Party's view that the money being spent on Labor's experiment would be much better devoted to rehabilitation beds and detoxification and prevention measures, including education particularly targeted at those who are not yet caught in the scourge. It appears to me that the empirical evidence on which the Government is basing its assertion is a count of the number of overdose cases that have occurred in the shooting gallery. The Government therefore is pointing solely to one point of harm minimisation, and to the extent that it applies to a very limited section of the community and to a very limited number of such examples. The evidence being cited by the Government needs to be tested properly against the alternatives of rehabilitation, detoxification and drug-use prevention by education.

The Government has not stated how much money has been expended in the establishment, running and extension of the operation of the shooting gallery by 12 months. What is that total amount of money? What opportunities have been forgone in the battle against drugs because of the inappropriate spending of that amount of money? I would like someone in the Government to tell me its policy on drugs. Is the policy one whereby heroin injecting rooms are to be ultimately condoned? Are other shooting galleries to be established, perhaps elsewhere in metropolitan areas or beyond? I do not know. I do not want to make that point in order to scaremonger, but the Government has to indicate the extent to which it will develop its policy if it finally declares that the shooting gallery has been a success. Does it intend to adopt this type of establishment as part of its permanent drugs policy?

I would like to know the empirical evidence, the benefits and the lack of benefits relating to the Government's policy on illicit drug use elsewhere in New South Wales. There seems to be quite a contrast in the approach taken by the New South Wales Government in Cabramatta and elsewhere in the Sydney metropolitan area and in regional and rural New South Wales as compared to its approach to the shooting gallery in Kings Cross. It is self-evident that the Kings Cross facility is accessible by a fairly small number of people within a reasonable travel distance. Regional and rural New South Wales are deficient in detoxification and rehabilitation facilities. The problems in rural areas are made worse because of distance. The rehabilitation facilities that exist often involve a significant journey for the victims. Those barriers, by any reasonable measure and on a daily basis, put facilities beyond the reach of most victims. The Government is failing to address the lack of rehabilitation and detoxification facilities in rural and regional New South Wales and stores far too much hope in one facility at Kings Cross.

I am concerned about the symbolic significance of locating the Kings Cross shooting gallery directly opposite one of the best-known transport nodes in Australia, Kings Cross railway station. The shooting gallery is highly visible in one of Australia's leading tourism destinations and backpacker accommodation sites. By making the shooting gallery a highly visible exhibition, Australia is sending an adverse symbolic message to the rest of the world and the rest of Australia. The creation of a law enforcement exclusion zone, albeit empirically

defined, condones illegal drug peddling by pushers in areas that are in close proximity to the shooting gallery. Drug users who purchase drugs in surrounding areas are virtually immune from prosecution for illegal activity by claiming that they are making their way to access the shooting gallery.

If the shooting gallery at Kings Cross will ultimately be determined to be a success, I want to know the Government's intentions and blueprint for the future. Because glowing tributes are constantly heard from the Government and its agencies, one can only assume that it has already decided that the shooting gallery is a success. Therefore, the Government owes the people of New South Wales a full explanation of the type of facilities that are envisaged for Sydney and other parts of New South Wales. The Government's blueprint should be included as a topic for discussion during this debate. [*Extension of time granted.*]

Members of the Coalition will be afforded a conscience vote in relation to the bill, but I intimate that members of the National Party will oppose the bill. A number of members of the Coalition, including members of the National Party, will participate in this debate because the illicit use of drugs is one of the worst social problems that any nation could face. I believe that the current New South Wales Government has vested far too much hope and expectation in one legislative measure and that this nation and this State have neglected the far more important approaches of detoxification, rehabilitation and prevention through education, including a more genuine approach to job creation, and stimulation of regional economies to mitigate the threat or risk of people succumbing to drug addiction.

I take this opportunity to place on the record the existing National Party policy on drugs. The policy was published during of the most recent State election and has been promoted subsequently. I included this policy in Drug Summit deliberations, and on a number of occasions, including in media releases, I have referred to the policy. I suggest that by the time the next election is held, the National Party will have reviewed this policy, expanded on particular aspects and added new policies. The National Party believes that the provision of better community education and better youth programs should be placed at the head of the list of drug abuse mitigation measures. After all, the resolution strategies are twofold: first, prevention and, second, detoxification and rehabilitation for those who have succumbed. No government should fall into the trap of placing total faith in one without the other—obviously, there needs to be a balance.

It is vital to have better resourced support agencies in dealing with drug abuse, especially in rural areas that are disadvantaged by geographical impediments. National Party policy includes a review of resources and effectiveness of the Life Education program. We also believe that a review of the methadone program is necessary. Better policing, particularly of drug trafficking, is also essential. In rural and regional New South Wales, a depleted police strength—police numbers are lower now than ever before—touches the very heart of the problem of dealing with drug abuse. Most country towns do not have a visible police presence late at night and in the early hours of the morning when much of the crime associated with the illicit drug trade and much of the illicit drug trafficking occur. If the Government is serious about addressing the problem of heroin addiction, an increase in police strength would be one way of assisting greatly to address the problem in rural and regional New South Wales.

The Government should ensure that a police presence—visible and on duty—is in existence late at night and in the early hours of the morning because much of the crime that occurs at those times is associated with illicit drug taking. I know from personal experience that that is the case throughout New South Wales but, because of the difference in availability of operational police resources and proximity to service resources, it is self-evident that the difficulty of dealing with the drug problems is greater in rural and regional New South Wales than it is in metropolitan areas. It is also National Party policy to review the resources and effectiveness of rural youth centres and to provide assisted employment for recovering addicts, which is almost as important as properly identifying and devising a program for such cases. It is National Party policy that by ensuring that there is an employment future, the propensity of again falling victim to the scourge of drugs is diminished. Successful rehabilitation is very closely associated with the provision of assisted employment for recovering addicts.

It is also National Party policy to expand the naltrexone detoxification treatment. I appreciate that to an extent that has already taken place, but I restate its place in National Party policy. I am pleased to note that naltrexone detoxification treatment has become more prevalent in treating drug addiction than when this policy statement was originally put to paper. Earlier I referred to the extension of detoxification rehabilitation centres in regional New South Wales. I emphasise that detoxification and rehabilitation centres need to be available to middle size and smaller towns to ameliorate problems associated with transport, travel time, distance and costs in rural areas, and they should not be restricted solely to provincial and metropolitan areas. It is also important to provide better rural networks to create equitable access to all programs for rural people.

More resources should be allocated to the detoxification and rehabilitation programs conducted by non-profit organisations so that the programs can be extended to rural areas. Compulsory detoxification of prison inmates should be included in the overall drug problem amelioration strategy. An examination of the possibility of random drug-driving tests should be undertaken, although I realise that technically they would be more difficult to implement than drink-driving tests. In Germany drug-driving tests are given to motorists and, where practicable, it would be worthwhile considering the role that random drug-driving tests could play in attacking the drug abuse problem in New South Wales.

I also see virtue in imposing compulsory life sentences for major drug suppliers and traffickers who are repeat offenders. Such a measure ought to be considered by a society which is struggling to address one of the most evil crimes in modern times. The Federal Government should not be excluded from consideration of possible solutions. The need for better coastal and port surveillance is also self-evident. I appreciate having had the opportunity to participate in this debate. I reiterate that I and all other members of the National Party will oppose the bill.

**Mr TORBAY** (Northern Tablelands) [12.00 p.m.]: I oppose the Drug Summit Legislative Response Amendment (Trial Period Extension) Bill. As my colleague the honourable member for Dubbo and other honourable members said earlier, this issue will cause a great deal of consternation and difficulty for many members who represent a wide range of views. In 1999 I, like many new members at the time, attended the Drug Summit—a worthwhile forum at which a number of matters were debated and discussed. I, as many others did, learnt a great deal as a result of the issues that were debated at that summit. But the summit also confirmed something that I already knew: services in rural and regional New South Wales are crying out for increased resources to cope with drug and other regional issues.

When the injecting room issue was debated there was an enormous response from many communities. Members of my community said to me—and I was pleased to get this feedback—"We want to be compassionate and we want to save the lives of people, but our main purpose is to get them off the dreadful substances that are killing them and causing so much hardship for their families and friends and many other members of the community." The key purpose of any trial injecting room or policy should be to help save lives and to get people off these substances. I oppose this bill as I do not believe that adequate resources are being allocated to get addicts off drugs. That is the issue for me. We must be compassionate and caring but we must also provide better rehabilitation services and place a greater emphasis on getting people off these dreadful substances.

When this matter was last debated at length I recall that honourable members on both sides of the House supported the establishment of an injecting room. I do not believe that an extension of this trial will tell us any more than we already know. I agree with other regional members who have spoken in this debate: Additional resources should be allocated to assist communities in regional and rural areas. I was interested to learn from some of my constituents that when people are genuinely seeking help to get off these terrible substances no rehabilitation programs are available to them.

I have experienced the same sorts of difficulties when trying to assist constituents in my community. I would like the Government to allocate additional resources to assist people to get off these substances rather than establish facilities that appear to be more of a shopfront. Those sorts of facilities, however well-intentioned, send the wrong message to the community. I indicate clearly that I oppose this bill. In the lead-up to the next election I call on the Government—and the Coalition, if it wins office at the election—to consider allocating additional resources to assist regional communities to tackle this dreadful problem.

**Mr GEORGE** (Lismore) [12.05 p.m.]: I support the Leader of the National Party in opposing the Drug Summit Legislative Response Amendment (Trial Period Extension) Bill. It is obvious that the Government's purpose in introducing this bill—which will extend the operation of the injecting room for an additional year—is to postpone until after the election the publication of the report of the trial. Conveniently, it will postpone until after the election the announcement by the Government of its proposed establishment of permanent injecting rooms in various locations in the Sydney region and elsewhere throughout the State. Heroin addicts, once in possession of a fix, need to inject without delay. They do not want to have to travel any distance before being able to do so. Some heroin addicts may inject many times in a day.

As heroin addiction is widespread in this State, many injecting rooms would be required if they were to become a desirable and necessary facility. As there is widespread objection by local communities and businesses to such injecting rooms there would be considerable electoral disadvantages for the Government if it made public its intentions before the election. To date the stock response of the Premier and other Government



members to any criticism concerning the injecting room is that it is only a trial. The moment of truth will be revealed or the need for an answer will arise before the election. When the bill to permit this trial was established in 1999 the merit claim by the Government was that the injecting room would operate only for two years and that the Government had no power to extend that operating time.

In seeking to extend the operation of the injecting room for a year the Government is now claiming that further use of the injecting room is needed to provide additional material. Figures concerning the use of the injecting room have been published. The Government claimed that the trial has been successful but that it requires to extend the trial as the report cannot be made available until after the expiry of an additional two years. The injecting room must continue to operate until that report is issued. Nowhere in this legislation is it suggested that the injecting room should be continued to provide further material on which to base the report. In reality, this legislation will again enable the Government to state, until after the election, that the injecting room is only a trial. It will also enable the Government to evade recent United Nations criticism in the most trenchant terms.

The Government could respond to that criticism by stating that New South Wales has come so far with the trial it would be foolish not to complete it to ascertain its outcome. Any such response would be a sham. The effect of that trial period can be determined whether or not the operation of the injecting room is extended for a year. The avowed purpose of the trial has always been to determine whether there should be permanent injecting rooms at various locations in this State. No purpose will be served by continuing to provide such a trial facility for drug users.

The Government must be prepared to provide permanent injecting rooms. However, it is abundantly clear that such a provision would be in defiance of the recent United Nations announcement, in the strongest terms, that New South Wales would be in breach of its treaty obligations. If we condoned such a move, it would inevitably result in an increase in drug abuse and trafficking. An increase in drug abuse would lead to increased drug addiction and drug-related crime. Given the ever-increasing crime in this State and the community's acceptance that most of it is drug-related, it is hypocritical of the Government to profess to be concerned and to be taking maximum action about it whilst at the same time it sets up facilities that inevitably increase drug crime and send out the wrong message.

Following the Drug Summit, drug action teams were established around the State, including in regional areas. In answer to a question on notice about how many community drug action teams were in place around the State, I was told there were 66 such teams right across New South Wales, 46 in regional areas and 20 in metropolitan areas. I asked how many members of these community drug action teams are genuine community representatives, and I was told that 50 per cent of the members are State or Commonwealth Government staff, local government elected councillors or council officers, and that 50 per cent are non-government and community representatives. I asked how many people are employed or receive support through Government positions or government-funded organisations, and I was told that a number of the people in the teams are employed in organisations that receive some degree of government support.

I raise this issue because the community drug action teams seem to have an agenda to follow a certain path. Recently I highlighted that concern in giving notice of a motion—which I am more than happy to debate—in which I congratulate the Mayor's Drug Advisory Committee at Inverell on adopting the kNOw Drugs strategy campaign. That committee received no funding to pursue its policy and to undertake the good work it was trying to do at Inverell during the campaign. It seems there is plenty of funding for some drug action teams but not for other teams that seem to have a different agenda. Members opposite may laugh about the community drug action teams, but I am convinced of their worth because I have been involved with them. Sadly, the Government-appointed leader of a drug action team in the north of the State was removed from his position because he had problems with some funds that disappeared. Even more sad is that fact that the person involved has a drug addiction problem.

I do not make these statements about the drug action teams lightly. I reinforce what I said earlier: drug action teams do not have adequate community representation. People who have families involved with drugs do not have majority representation on these teams. The kNOw Drugs campaign, which is run by an Inverell shire committee of which I am very supportive, is directed at young people, and that is where we need to start. We need to educate young people, because many problems start with young people using cannabis. I wish to read from a letter written by Bob Hopkins, who started off the cannabis reform group in Nimbin. Some years after Mr Hopkins left the area the letter was published in the local press. It reads:

Dear Nimbinites,

Readers of this year's "Good Times" Will Probably Be Aware of Mine over-Ambitious in Teams in Lurching Back into Nimbin on a quixotic crusade to challenge the cannabis culture status quo. Sadly I found my capabilities to carry off this aim sorely lacking — I had neither the skills, patients, energy, social and political astuteness, nor the financial resources or spiritual strength necessary to carry out what I sought to achieve. It didn't take the long before I found myself feeling very dejected and isolated.

(Admittedly due in large part to my beds and all diplomatic style), and up against a task that was far beyond me. Window and is a great little town with some of the most wonderful people you're ever likely to meet anywhere. But there are inherent contradictions you that challenge any claim Nimbin may have as regards and ethical and alternative vision. The on-street trade in cannabis that dominates village life is one that has corrupted community values and is rationalised by a massive over-simplification of the issues involved, a misguided posturing that portrays cannabis as a harmless, if not beneficial, substance and its purveyors heroes of the revolution, and a demonising of anyone who challenges this dominant culture. Plus it has encouraged the ready availability and use locally of an alarmingly broad range of other still more dangerous substances.

Statistics show that over 50% of 17-year-olds in Australia are using cannabis and given the associated health (social, physical and mental) concerns constitutes a very disturbing feature of modern life. The only people who benefit from these are those who financially profit and it is this that is at the heart of Nimbin's current dilemma. In our economically dominated society the lure of acquisitiveness" to spending power has transcended concerns for fundamental social justice or welfare. Senna Lee sidelined has been the development of an informed thoughtful analysis and creative response to the situation.

Despite a fashionable "cannabis law reform movement", there appears very little desire for the current situation to change other than to remove the official persecution. Denial is paramount. Change is primarily driven for and/or by those who desire to use cannabis whenever and wherever it pleases and to continue the traffic in cannabis, free from any resistance, while continuing to reap the big cash returns that result from this dubious trade.

*[Extension of time agreed to.]*

The letter continues:

This rather than any desire to reduce the harmful effects that result from unbridled pot consumption or to challenge the misuse of power and greed of those involved in the black economy.

**Mr Lynch:** Point of order: This is a wide-ranging debate and I am loathe to intervene, but it seems that the reefer madness about cannabis that the honourable member for Lismore is embarking upon has no relevance whatsoever to this bill.

**Mrs Lo Po':** No, they're not injecting cannabis, actually.

**Mr GEORGE:** To the point of order: Whilst it is not about injecting cannabis, the problem starts with the use of cannabis. That is the point I am trying to make.

**Mr ACTING-SPEAKER (Mr Mills):** Order! I uphold the point of order. However, I do so on a ground that has not yet been referred to. The honourable member for Lismore is allowed to make passing reference to the matters he has dealt with. However, the standing orders restrict the reading of lengthy material into *Hansard*. I ask the honourable member for Lismore to return to the subject matter of the bill.

**Mr GEORGE:** The point I make is that we need to make young people in country and regional areas more aware of the dangers of drugs and more aware of rehabilitation and detoxification. All the funding that is being spent on the injecting room could be more wisely spent throughout regional and country areas. We do not even have the necessary public transport for these people to seek help. We need more financial support in country and regional areas. I commend the Inverell team and I encourage drug action teams around the State to reconsider their policy on how the kNOW Drugs campaign is being run. The campaign is going a long way towards helping combat drug problems, which start with cannabis, and associated problems in rural and regional areas. But, as I said earlier, the committee that operates that campaign has received no funding. Such funding should be made available to country areas.

**Mr ASHTON (East Hills) [12.19 p.m.]:** My first speech in this place was not as a member of Parliament in this Chamber but as a private individual before the Drug Summit. I support the bill. I congratulate the Government and the Special Minister of State on his supervision of the medically supervised injecting room at Kings Cross. The Drug Summit was a success, and I believe that the injecting room has been a success. This bill seeks an 18-month extension for that facility. The honourable member for Lismore said that drug use is a problem for all of New South Wales and Australia. The purpose of an 18-month extension of the operation of the injecting room is to get better evidence of how drugs are affecting New South Wales and how the Kings Cross injecting room is working. There is no secret agenda, as has been suggested, to extend the operation of the medically supervised injecting centre beyond the next election. If the Coalition wins the next election—which is

unlikely—it can change the law immediately to suit its agenda. The Coalition has indicated that its members will have a conscience vote on this matter. In that regard, a conscience vote for the National Party presumably means that all its members will vote the same way, and it may be that some members of the Liberal Party will not vote against an extension of the trial. Let us not pretend this bill is about politics. If the Coalition is elected, it can change the law if it wishes.

The longer the trial, the better the evidence will be on which to make a decision. There was a long delay between the decision being made to set up this trial and its commencement. When the decision was taken the nuns at St Vincent's Hospital said they would be happy to run the program. But they were overruled by a higher authority, it seems. As the honourable member for Lismore said, this argument divides the community. Some members on this side of Parliament, in a conscience vote, may vote against an extension of the trial, I do not know. However, the point I am making is that all the arguments have already been run. The simple fact is, the more figures we have, the bigger the sample will be and the more evidence we will have.

The honourable member for Lismore spoke about the impact of drugs on country New South Wales. But the biggest problem is not in country New South Wales; the biggest problem is in Sydney. No matter what country members say, the biggest problem is in Kings Cross, Cabramatta, parts of Bankstown and parts of Redfern. There are problems also in parts of the North Shore with cocaine rather than heroin—as we learnt from the police officers at Manly who were found to be up to no good. It is not a matter of saying close the injecting room at Kings Cross now and spend a few million dollars on hospitals in various electorates around Lismore. The problem is that most of the drugs that come into this country go to the cities. They do not go to Lismore or Coffs Harbour. That is an important point to keep in mind.

I have received not one letter or telephone call asking that the medically supervised injecting room at Kings Cross be closed down. It has been proved that the idea of no drugs does not work. I spent 20 years of my life teaching schoolchildren and I can assure honourable members that warnings such as "Don't get involved, because further down the track this or that might happen." fall on deaf ears. The figures show that the majority of those who go to the injecting room are unemployed, they are battlers, they are drug-addicted, they are perhaps prostitutes or living on the streets. They are not people who cruise up in their black BMWs to get their drugs and then move on. Saying no to people who have been told no to everything all their lives is not much of an answer. Those who stand a long way from this issue should try telling a roomful of average high school kids to "Just say no." It does not work. I remember as a young kid being told to just say no to sex before marriage and to just say no to drugs. Well, it just does not work. Young people in particular will interpret a term such as "just say no" as the oldies telling them not to do something that must be worthwhile and, therefore, they will have a go at it. That argument has never worked. The trial injecting room was an attempt to see whether something different could work.

The Leader of National Party said earlier that the Federal Government must take a stand on this issue too. Remember: heroin and cocaine are not made in Australia. Handguns are not made in Australia. They are brought into Australia. Until recently the persons most likely to make an arrest on a beach at Port Macquarie, Coffs Harbour or Lismore were the local newsagents or milkmen, who would be see a boat arrive in their area with a massive load of drugs. The Leader of the National Party has acknowledged that the Federal Government must do more. If the National Party were fair dinkum, it would be more concerned about stopping the millions of dollars worth of drugs coming into the country than about a few thousand asylum seekers. I do not want to go further down that track; it might cause a few members opposite to suffer more of the reefer madness that the honourable member for Liverpool and I have been talking about. A movie on that topic was made in the 1940s or 1950s, and it is now regarded as a cult film. Such sentiment will not stop anyone from doing anything. It reminds me of the issues that used to be covered on the television show *M\*A\*S\*H\**, such as service men and women not having sex while in Korea. Well, that did not stop people engaging in that activity, and apparently only bromide worked in that regard during the Second World War—according to my father.

No-one gets any more pleasure from reading about the seizure of large amounts of drugs coming into this country than I do. That is always fantastic news. We have to stop drugs getting into the country. We have to stop them being sold to vulnerable people. We have to stop the gangs that are exploiting members of our community, particularly our kids and our older people. We have to lock up those responsible. This Government has not only introduced legislation to open a medically supervised injecting room, it has also given police the power to knock down buildings and to arrest people in those premises who are suspected of being involved in the drug trade. It has introduced no-bail provisions and a raft of other measures to deal with the drug issue. But the last thing Parliament needs to worry about is the suggestion that an 18-month extension of the Kings Cross injecting room will mean the end of Western society as we know it in New South Wales.

**Ms MOORE** (Bligh) [12.27 p.m.]: I support the Drug Summit Legislative Response Amendment (Trial Period Extension) Bill, which extends the trial period of the medically supervised injecting centre. I do so because it is a sensible and practical public health proposal. There are several reasons we should support the trial extension: to prevent knee-jerk reactions, especially at election time; to test the service properly; to have full and proper evaluation; and to allow proper consideration by Parliament. It took a shocking photo in the *Sun-Herald* of a boy injecting in Caroline Lane in my electorate in the lead-up to the 1999 election to get an undertaking from the Premier for the Drug Summit and for New South Wales Parliament to address one of the most difficult and confronting issues facing society today: the impact of drugs on society, particularly on our young people.

To its credit, the Government honoured the commitment. The Drug Summit was a very powerful forum and it has achieved very real reform. Most radical was the trial of the medically supervised injecting centre in my electorate at Kings Cross. There should have been more than one injecting centre trial. In fact, the parliamentary committee of which I was a member recommended there should be three, but we all know that only small steps forward are taken when we are looking at reform. I commend the Premier, the Special Minister of State and members of Parliament for supporting the trial in the face of opposition, not just from the National Party, talkback radio and from Canberra, but from as far away as the Vatican, which stopped the Sisters of Charity from running the program.

I commend the new Leader of the Opposition on his leadership on this important but tough issue. Justice James Wood's 1997 royal commission recommended the trial of sanitary injecting rooms to deal with the problems of street drug use. He saw it as a logical extension of the successful needle exchange programs that were saving lives—a very logical and reasonable recommendation to Parliament. In May 1999 at the Drug Summit I moved the successful motion. It became part of the Government's plan of action, which committed the Government to:

... support one trial of a medically supervised injecting room. In recognition of the arguments put to the Drug Summit, principally that the establishment of facilities of this kind will decrease overdose deaths, provide a gateway to treatment, and reduce the problem of discarded needles and users injecting in public places, the Government will agree to the establishment of an 18-month trial of a medically supervised injecting room on one site only.

The trial aimed to reduce needles in our streets and to provide a supervised environment with access to medical help, counselling and rehabilitation. It allowed for injecting to be carried out in a supervised environment, not on the streets and in the back lanes of Kings Cross. It is my constituents who must live with the consequences of street drug use, and they know that ignoring the problem will not make it go away. Although people might not like it in their neighbourhood—I know that older people in particular find the whole injecting drug scene very confronting and distressing—the majority of people in my electorate are tolerant and are prepared to give the trial a fair go. The hope is that amenity will improve—a reduction in street injecting and syringes in public places—that the centre will save lives and that it will help the marginalised drug-using minority to get their lives back together.

In my November 1999 speech in Parliament I asked anyone who might be sceptical to put themselves in the place of a parent whose son or daughter is injecting on the streets, and ask themselves whether they would feel better knowing that their child could have access to clean needles, immediate medical assistance if they overdosed, and counselling, treatment and rehabilitation. Last Friday I participated in a forum in Kings Cross that was run by Rough Edges, which is a program of the Anglican Church of St John's. We were talking about how to deal with violence, particularly street violence and often from people who are involved in drug-related crime. One of the most moving contributions at the forum was from a mother whose 21-year-old daughter is a serious drug user. Since her daughter was 16 she has spent most of her time searching for her daughter on the streets of Darlinghurst and Kings Cross. Her contribution was pretty heartbreaking.

I know—and I send a direct message to this Parliament and to all members—that that mother is very grateful that the injecting centre is there and is helping to keep her 21-year-old daughter alive, because she still hopes that her daughter will get off drugs. In May 2002 we need to follow through and ensure that the medically supervised injecting centre is properly tested. Extending the trial will enable that to happen. There has just been an interim report on the trial. That report is the result of a very rigorous independent process. Indeed, I understand that it is the most rigorous process of its type undertaken anywhere in the world. So we are at the leading edge.

In the 12 months that the centre has been operating there is an indication of success. The most important indication is that there have been no deaths in the injecting centre. Indeed, there have been 250 overdoses. That could mean that this centre and this Parliament have kept alive 250 marginalised young people

who might get their lives back together. People who would otherwise inject on the streets of my electorate and the electorates of other members, are risking their lives and causing a great deal of distress to non-drug users. Nearly 3,000 drug users have registered to use the centre for injecting. The centre has also encouraged young people to take up rehabilitation and treatment, and again the figures are quite staggering. Some 31,000 service visits have been recorded. The centre is reaching its target audience.

I am a member of the community committee, which has regular meetings upstairs in the centre. I walk past users as I go upstairs, and some of the ones I have seen using the centre are very marginalised and have not up until this point in time accessed any other service or had an opportunity to talk with health workers. Once again we are showing not only that this is good public health policy but that this is about compassion and a Parliament getting in there and trying to make a difference on one of the most difficult and confronting issues we face. That is a good indicator of our success. The centre is also catching problems early and preventing problems from developing. Surely, the Prime Minister and the Pope would care about intervention when up to one-third of people who visit the centre are referred to other services, including wound dressings, counselling and drug health information.

There have been 1,000 referrals to other services, mostly to drug treatment and rehabilitation. That might be 1,000 young people who might be getting their lives back together again and who will be able to join the mainstream and perhaps make a contribution to society. Police inform me that the heroin currently available on the streets is much purer than previously and, therefore, there is an increased risk of overdose. This sort of information can be passed on by the centre. I refer in passing to the Kings Cross Local Area Command, which is very important in the context of this issue. A new commander started five months ago. Commander Dave Darcy has been very active in and responsive to the community. He is working with residents and businesses to address crime through a visible street presence. He is coming down hard on licensed premises and he is developing preventive strategies such as safety audits. There is much greater accountability to residents.

I believe that this new approach—Commander Darcy is ensuring that there is adequate policing around the centre to address dealers—will make a real difference to the lives of people in the area down the track. I have had anecdotal feedback from the community that there are fewer needles and syringes on the streets, in lanes and in yards. Indeed, the evaluation report states that there is less drug-related loitering both at the front and back of the centre. There has been an increase in pedestrian traffic in Darlinghurst Road. Some sections of the community and some members of this House and the Legislative Council will continue to oppose the medically supervised injecting centre, even if it is shown to achieve its aims. I do not think anyone could deny that the interim report indicates that it is already achieving its aims.

Other more reasonable and, I think, more intelligent people are prepared to support a trial and wait for results to come in. I would like the Government to send these results to Rome, which prides itself on the sanctity of life, because this centre is keeping drug users alive. Hopefully, they may be able to make a useful contribution to society. I say to Church leaders: If Christ was around in the twenty-first century he might be most concerned about the marginalised drug users in our electorates. I ask Major General Watters perhaps to address that issue. On 8 May the *Sydney Morning Herald* reported that drug injecting rooms in Germany had reduced drug-related deaths by 10 per cent. Again, that is information that Rome needs to consider.

The report said that the commissioner in charge of the country's drug policies called the drug injecting rooms survival aids and said that they had had no overdoses in their rooms. The Sydney centre might well be saving the same number of lives. In conclusion, I restate that I strongly support this bill. I call upon all reasonable, intelligent, compassionate and caring members to support it. As I said in this House in November 1999, by voting for this legislation members vote to send a message that they want to save lives and to give people a chance to get into treatment and become drug free. That is the message this Parliament should be sending to our children and to the community, both here and overseas. I say to the Government: The success so far of the medically supervised injecting centre should make you brave in addressing the tough urban issues that confront us. Reform is supported by most reasonable people. It is a pity that governments often tend to lag two decades behind the community.

**Mr LYNCH** (Liverpool) [12.40 p.m.]: I will commence my brief contribution to this debate by commenting upon the disgraceful attack by the honourable member for Lismore on local community drug action teams. The suggestion that they are part of some appalling plot to pursue a predetermined Government outcome and that they have no thoughts of their own is clearly wrong and outrageous. I am certainly aware of the work done by the Liverpool local community drug action team; in the next couple of weeks I will open its forum. I have been to one of its meetings and have regularly talked to the chair of that body, Joe Durrant. Anyone who

suggests Joe Durrant is a tool of the current Labor Government does not know him. Joe's fierce independence plays a useful and productive role in our community but to suggest that he is someone's cipher, as was suggested by the honourable member for Lismore, is quite outrageous.

This legislation is in a narrow compass. It deals with the extension from 18 months to 30 months of the trial period of the medically supervised injecting centre. If the original bill passed, logically it should be a matter of no great controversy that the trial period might be extended. The discussion has become a debate, of course, about the merits of the injecting room rather than whether the trial period ought to be extended. I would have thought that the arguments put forward in support of the trial of an injecting room are still valid. In a sense what has stuck in my mind about this debate is a comment made to me by what someone I would call an old-fashioned detective—and I use those words in their best sense. I spoke to him about the options available and about a range of potential reforms before they were introduced. He said, "Paul, I couldn't morally support anything that suggested it was going to be a safe injecting room, but I don't know what else works." It seems to me that that is the reality of what those at the hard law-and-order face of this debate are saying. If they say that, it seems to me that we have little sensible option but to support the trial of a safe injecting room.

**Ms Moore:** Not safe, supervised.

**Mr LYNCH:** I am drawn to the correct terminology by the honourable member for Bligh. The argument that prohibition works somehow or other flies in the face of reality: it is just not part of the real world. There is a contrary argument, a knee-jerk reaction, about shooting galleries and the like and that somehow or other we have to send a message to members of the community that they cannot use illegal drugs. People who use that rhetoric have little contact with the real world because the real world is sending a message to us that people are using illegal drugs continually and in greater numbers. Those who believe that simply standing back and telling them that they cannot use illegal drugs will have any impact are off with the pixies. These are real issues for which we need solutions. We cannot simply retreat into a corral, surround ourselves with a laager and come out with totally unrealistic rhetoric.

The honourable member for Willoughby made a sensible and thoughtful contribution. He talked about the acquiescence in illegal drug taking that we demonstrated by establishing a supervised injecting room. He then talked about the needle exchange program and said that he had originally opposed it, but was now a convert. I do not understand how, at a moral or a principle level, there is any distinction between the needle exchange program and a supervised injecting room. What on earth is the honourable member for Willoughby arguing that people would be using the syringes for? It is patently obvious that, as a matter of principle and a morality, there is no difference between the two cases. The honourable member for Willoughby is now a convert to the needle exchange program. Frankly, I would like to believe that those in this place who might oppose supervised injecting rooms could go through a similar process and become converts and supporters of the process.

**Mr OAKESHOTT** (Port Macquarie) [12.43 p.m.]: I support the bill. I acknowledge the odd position I am in of representing an electorate 400 kilometres away from Kings Cross, but, through a series of events and for a range of reasons, being dragged into a debate about a supervised injecting room. The first of those reasons is that the problem of drugs is endemic throughout New South Wales and Australia and, to a degree, around the world. In addition, the politics of drugs, not only in this Chamber but throughout New South Wales and Australia, is undoubtedly very much a part of trying to get resolutions to the problem. I came to this debate completely open-minded, without any predetermined views. Six years ago when I became a member of this House I had never campaigned on the issue or been asked about it in a public forum in the lead-up to my election. However, it is now a significant point of difference between my former party, the National Party, which intends to vote in a block against this legislation, and me. I find that unusual and disappointing. The politicisation of the issue is particularly disappointing.

We are all unsure about how to minimise the future use and abuse of drugs in our community. We all have our own fears and prejudices when we talk about these topics. However, those fears and prejudices, a lack of knowledge and trying to win votes on such an important issue are not grounds for not being open-minded to an evaluation process and to exploring solutions outside the traditions of this House. Those traditions seem to involve not talking about this issue and not doing anything that might disturb the status quo. I believe we all agree that does not achieve any beneficial outcomes for the communities we represent.

To highlight how I was dragged into a debate 400 kilometres from home, in 1996 when I was first elected to Parliament I was interviewed by Quentin Dempster for about half an hour on *Stateline* in an around-

the-world interview. I was a young person involved in a political party which was considered to have strong socially conservative views on everything. I was asked, "With the problem of heroin in our community, with the police commissioner and various other eminent authorities having supported a trial, what is your view?" I innocently answered that I supported a trial. I said we needed to be doing more on all fronts, not only in relation to injecting rooms but in trialling compulsory rehabilitation centres—the works. I said we should be trying them all rather than doing nothing, and the campaign should be to do something rather than nothing. During the subsequent week I got a real dose of the politics of this Chamber in relation to drugs. The fact that I had taken a somewhat unusual position in relation to the topic then became a media issue. That was probably to be expected. The disappointment was when members of my own team decided to try to teach the young bloke a lesson, rap him over the knuckles, take a different point of view and make that public.

At the Drug Summit in 1999 it was clear that the Coalition took a position at the start of the week, not at the end of the week, in what was supposed to be an information-gathering exercise and a learning experience to broaden our knowledge and to look at programs that normally we would not look at. But the politics were played fairly early and the Coalition made its position clear. The politics are now being played again in relation to this bill. The National Party will not allow a conscience vote on this legislation; it will vote in a block. There will not be a conscience vote; the party is locking into a political position on which to campaign for the next 10 months. Let us watch the fliers come out; let us watch the positions that are taken publicly. Let us watch the campaign evolve during the next 10 months. The National Party will play the politics of this issue and will label the injecting room as a shooting gallery. They will try to whip up the political scaremongering and try to simplify an incredibly complex and difficult issue.

On the positive side, some points were raised by the Leader of the National Party. If we were all trying to ensure more is done to address this issue, I and I think everyone else would support his comments. Expanding detoxification and rehabilitation facilities is a fantastic idea. Expanding the naltrexone program—fantastic. Assisted employment for recovering addicts—fantastic. Expansion of access to the rural network for those who are struggling with the drugs issue—fantastic. Having a look at compulsory detoxification for prison inmates—fantastic. Random testing for drug-driving is worth having a look at. Compulsory life sentences for major drug traffickers is also worth looking at. Expanding coastal and port surveillance to guard against the importation of drugs also is worth having a look at.

Those matters are the positive side of the debate, and I would encourage everyone to emphasise the positives of the debate and provide more detail on those and other initiatives. The position that the Leader of the Opposition has taken is to be encouraged. This is a difficult topic, especially for him to deal with in the early days of his leadership given the internal workings of the Coalition. I congratulate the Leader of the Opposition for taking the position that he has. I understand he has been successful in achieving a conscience vote for members of the Liberal Party. That is to be encouraged, and I congratulate him on that.

The criticisms levelled at this bill and concerns expressed about it relate to the Government's lack of a plan to deal with the overall topic of the supervised injecting room at Kings Cross. There is a question about whether the extension of the trial is a cynical exercise. I congratulate the Government on extending the trial and taking this matter out of the political arena. That is a positive, not a negative, approach to the issue. It provides for evaluation of its operation and for better informed debate to be conducted in a non-political environment. Another clear benefit of this bill is that the debate on the evaluation process can be as rational as any debate that takes place in this Chamber. I do not think this bill should be considered as a conspiratorial measure leading up to an election. I think it will take a lot of the heat out of the issue, and that is desirable when considering this general topic of drugs policy and drugs use.

I was concerned by criticisms that the Government has no plans to deal with the drugs issue. I am continually frustrated by the Coalition's tendency to indifference to the Drug Summit 1999 and the 172 recommendations emanating from that forum, even though they are starting to be implemented on the ground in electorates such as mine. There has been an all but united approach by community groups, interest groups and government to the Drug Summit 1999 and its recommendations. Yet the Government and the Opposition in this place strive to find points of difference. The debate today has demonstrated that.

I was surprised at the attack on community drug action teams generally. I will simply say that the electorate of Port Macquarie has an excellent community drug action team that is doing very good work. It has a broad cross-section of committee members, including groups that are supportive of zero tolerance. For example, the Keep Our Kids Alive group in Port Macquarie is an active member of the community drug action team. It is wrong to say that those sorts of bodies do not get any government funding. The day before the last Federal election Keep Our Kids Alive got \$80,000 from the Federal Government. Hassela Australia, the compulsory rehabilitation farm at Kundabung, just outside Port Macquarie, got \$47,000 from the State Government.

**Mr George:** Yes, stick up for them!

**Mr OAKESHOTT:** I am not sticking up for them. I am trying to get away from making this an issue between us and them. Funding is going to various groups. Some is successful and some not. We all want evaluations done. We are starting to see the implementation of the 172 recommendations from the Drug Summit. Programs such as those of the community drug action teams are positive and unify community-based approaches to dealing with the issue. We are about to see the magistrates early referral into treatment [MERIT] program rolled out. Again, that is a good, community-based program to deal with this issue. The points-of-difference argument on this topic that has evolved between the Government and the Opposition to become a tradition of this Parliament in the six years that I have been a member of it is incredibly disappointing. It jeopardises positive future directions on this topic.

It is with disinterest that I support this legislation. I regard it as part of an overall approach that is to be encouraged. I strongly urge all members of this place to work towards getting the 172 recommendations rolled out into the community and to garner community support for them. I discourage all members of this Chamber, regardless of where they stand politically, from playing politics on this issue, from trying to play favourites in the debate, trying to pick favourite issues from the debate, labelling these facilities as shooting galleries or, at the other extreme, compulsory gaols. We need to recognise that this is a complex issue and that it needs to be dealt with sensibly and positively. I encourage the community to support initiatives such as community drug action teams and to get behind the groups that do all the work at the local level. The challenge facing members of this Chamber is not to rip, tear and bring everything down but to build up support for local groups and initiatives such as the MERIT program. Then we will be doing the best we can.

**Debate adjourned on motion by Mr Kerr.**

*[Mr Acting-Speaker (Mr Mills) left the chair at 12.58 p.m. The House resumed at 2.15 p.m.]*

## **BUSINESS OF THE HOUSE**

### **Precedence of Business: Suspension of Standing and Sessional Orders**

**Mr WHELAN** (Strathfield—Parliamentary Secretary) [2.20 p.m.]: I advise honourable members that currently we are dealing with the Drug Summit Legislative Response Amendment (Trial Period Extension) Bill and that at 7.30 p.m. the second reading debate will commence on the Civil Liability Bill. I expect that debate on those bills will take some considerable time. For that reason it will not be possible to have private members' day tomorrow.

**Mr SPEAKER:** Order! The honourable member for Davidson will remain silent.

**Mr Hartcher:** Why not on Friday?

**Mr WHELAN:** That is a very important interjection. It may well be that we will have private members' day on Friday but because a number of honourable members wish to speak on both bills, it may well be that on Friday the House will consider both bills to their conclusion. The Government is determined to finish these pieces of legislation this week, but if time is available on Friday we will have private members' day. However, I expect that that will not be possible. I therefore move:

That standing and sessional orders be suspended to allow Government Business to take precedence over General Business on Thursday 30 May 2002.

**Mr TINK** (Epping) [2.21 p.m.]: The Coalition opposes this motion in the strongest possible terms. Yet again this Government is not allowing the House to sit for a sufficient period to allow the Opposition to deal with Government business, let alone Opposition business. A whole list of new legislation is scheduled to be debated tomorrow but the motion is for debate to be suspended. The General Business items on the business paper reflect a veritable road map of the failings of this Government in every portfolio. Debate will not be able to proceed tomorrow on Opposition bills in relation to sentencing, plea bargaining and other important matters relating to criminal justice. Tomorrow the Opposition will not be able to debate the Leader of the Opposition's vitally important bill relating to mandatory life sentences for people who murder police officers engaged in the execution of their duty, nor will we be able to debate open and accountable government under freedom of information legislation, young offenders legislation, or legislation relating to mortgages.



**Mr SPEAKER:** Order! The honourable member for Kiama will remain silent. I call the honourable member for Swansea to order.

**Mr TINK:** The Opposition will not be able to debate the Police Integrity Commission Amendment (Access to Documents) Bill or the Community Protection (Illegal Brothels) Bill. The business paper is a road map of the failings and negligence of the Premier and his Government on a whole range of portfolios on matters ranging across the whole of government. The Opposition will not be able to debate the Protection of the Environment Operations Amendment (Confiscation and Forfeiture of Vehicles) Bill or the Community Services (Complaints, Reviews and Monitoring) Amendment (Application) Bill in spite of the fact that, day in and day out, the shadow Minister for Community Services raises the issue of the physical safety of the children of this State.

**Mr SPEAKER:** Order! The honourable member for Londonderry will remain silent.

**Mr TINK:** The Premier and the Government act in loco parentis for a whole lot of foster children, but do not even know where the children are. The Opposition has initiated a private member's bill on complaints, reviews and monitoring of children's services, yet the Premier, as the father of foster children in this State, so to speak, does not even know where his children are. He has no idea, and that is an absolute disgrace. Yet week in and week out the House does not sit. When the Government eventually decides to allow it to sit, it lowers the boom on the Opposition's opportunities to bring forward private members' legislation or fill in the blanks of this Government's pathetic legislative program. The Government bungs through what it wants to do because it cannot be bothered sitting during recess.

It is pathetic! We will not be able to debate the Local Communities (Brothels—Flexible Zoning) Bill, the Local Government Amendment (Ethics Review Panel) Bill, the Young Offenders Amendment (Reform of Cautioning and Warning) Bill, or the Roads Amendment (Road Tunnel Pollution Filtration) Bill. The Government Whip is about to bring down the boom on debate on a bill that will filter air for his constituents. These are issues that this Government and the Minister for Transport, and Minister for Roads will not raise. The shadow Minister for Roads and members of the Opposition have to raise these issues. The Minister does not want to be in it.

**Mr Scully:** Ask me a question.

**Mr TINK:** The only questions that the Minister answers relate to his dog. Does the Minister have a child restraint for his dog?

**Mr SPEAKER:** Order! The Minister for Transport will remain silent.

*[Interruption]*

**Mr TINK:** I was talking about the Minister's dog; I was not talking about his horse. This motion is designed to silence debate on issues to be raised by private members. We will not be given an opportunity to introduce legislation to fill the gaps in the Government's program. After seven years in office the wheels of this Government are falling off. This motion is designed to shut down debate on key issues that the people of New South Wales have asked Opposition members to deal with—issues that Government members have not dealt with for seven long years.

The Government wants to deal only with its legislation. It wants to gag debate on legislation to be introduced by Opposition members. It does not want to sit in non-sitting weeks as that might interfere with the Premier's German lessons, or it might interfere with one of his junkets to China. It might interfere with the proposed trip to Ireland of the Leader of Government Business to look after his race horses. What we call the business of the House is inconvenient to the Government. Let us get on with the business of the House.

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

**The House divided.**

**Ayes, 48**

Ms Allan	Mr Greene	Mr Orkopoulos
Mr Amery	Mrs Grusovin	Mr E. T. Page
Ms Andrews	Ms Harrison	Mrs Perry
Mr Aquilina	Mr Hickey	Dr Refshauge
Mr Ashton	Mr Hunter	Mr Scully
Ms Beamer	Mr Iemma	Mr Stewart
Mr Black	Mr Knowles	Mr Tripodi
Mr Brown	Mrs Lo Po'	Mr Watkins
Miss Burton	Mr Lynch	Mr West
Mr Campbell	Mr Markham	Mr Whelan
Mr Carr	Mr Martin	Mr Woods
Mr Collier	Mr McBride	Mr Yeadon
Mr Crittenden	Mr McManus	
Mr Debus	Mr Mills	
Mr Face	Mr Moss	<i>Tellers,</i>
Mr Gaudry	Mr Newell	Mr Anderson
Mr Gibson	Ms Nori	Mr Thompson

**Noes, 34**

Mr Barr	Mr Humpherson	Mr Slack-Smith
Mr Brogden	Mr Kerr	Mr Souris
Mrs Chikarovski	Mr McGrane	Mr Stoner
Mr Collins	Mr Merton	Mr Tink
Mr Cull	Ms Moore	Mr Torbay
Mr Debnam	Mr O'Farrell	Mr J. H. Turner
Mr George	Mr Oakeshott	Mr R. W. Turner
Mr Glachan	Mr D. L. Page	Mr Webb
Mr Hartcher	Mr Piccoli	
Mr Hazzard	Mr Richardson	<i>Tellers,</i>
Ms Hodgkinson	Ms Seaton	Mr Fraser
Mrs Hopwood	Mrs Skinner	Mr R. H. L. Smith

**Pairs**

Ms Meagher	Mr Armstrong
Mr Price	Dr Kernohan
Ms Saliba	Mr Maguire
Mr W. D. Smith	Mr Rozzoli

**Question resolved in the affirmative.**

**Motion agreed to.**

**NEWCASTLE DISEASE OUTBREAK IN VICTORIA****Ministerial Statement**

**Mr AMERY** (Mount Druitt—Minister for Agriculture, and Minister for Corrective Services) [2.34 p.m.]: On Monday 13 May the Victorian Department of Natural Resources and Environment confirmed a case of virulent Newcastle disease in a western Victorian poultry layer farm. Swift action by the Victorian department has ensured that the outbreak is contained, and I am advised that the infected flock poses no risk to other poultry operations in that State or other States. About 200,000 birds have been killed on the property. Cleaning and disinfecting is about to begin and will continue for the next 12 weeks. In the meantime, State veterinary authorities have agreed that unaffected farms in Victoria can continue trading all poultry and poultry products.

The cost of compensation and clean-up is expected to be in excess of \$2.2 million. This cost will be met by industry and the State and Federal governments under a national cost-sharing agreement. Industry will

meet 50 per cent of the total cost. The New South Wales contribution will be 20 per cent of the remaining 50 per cent Government share. This will mean that New South Wales taxpayers will fund about \$220,000, using the current estimated costs. This share is calculated on the basis of the size of the poultry industry in New South Wales compared to those in other States. Compare this to the New South Wales operation in Mangrove Mountain in 1999, which cost \$26.38 million, of which New South Wales funded \$5.1 million under a previous cost-sharing arrangement. These cost-sharing arrangements provide important assistance to industry and recognise that it cannot meet the full cost of such responses alone.

There have been no outbreaks of Newcastle disease in New South Wales since March 2000. However, New South Wales Agriculture has been closely involved in the response to the Victorian outbreak. New South Wales Chief Veterinary Officer Mr Dick Jane is a member of the national Consultative Committee on Emergency Animal Diseases. The committee assesses and provides advice on the emergency response plan developed by an affected State. Mr Jane has therefore been involved in daily assessments of the Victorian situation. New South Wales Agriculture regulatory and veterinary staff were also ready to go to Victoria if they had been required, although ultimately that was not necessary.

The Director-General of New South Wales Agriculture, Dr Kevin Sheridan, is a member of the Combined Government-Industry National Management Group. The group oversees the emergency response to any notifiable agricultural disease. All governments and industry must be constantly vigilant and mindful of such disease outbreaks. It is also now recognised that a vaccination strategy is an essential step to ensuring ongoing industry freedom. A national program of compulsory vaccination of poultry is therefore being developed with the support of industry.

**Mr ARMSTRONG** (Lachlan) [2.37 p.m.]: The Minister's announcement has once again alerted Australia to the ever-imminent threat of exotic diseases affecting our animal and horticultural industries. Australia enjoys the international reputation of being one of the world's cleanest and healthiest producers of foodstuffs. It is one of the reasons why our primary industries have done so well in recent years. Indeed, I understand Australia is the largest exporter of foodstuffs. Many of our food processors export foodstuffs to 60, 70 or 80 countries throughout the world. As we know, eggs are one of the most popular export products. The product enjoys a great reputation owing to its health benefits, it is a major income earner for producers, and the industry employs many people. As the Minister said, some months ago an outbreak occurred in New South Wales but, fortunately, it was able to be controlled.

The control of Newcastle disease is very simple: the poultry must be destroyed. That is extremely dramatic. It is dramatic financially, as the Minister said, but it is also dramatic from the social point of view because jobs and the community's reputation are at stake. The Opposition therefore strongly supports the Minister's announcement of compulsory vaccination. Firstly, we must achieve complete control of the disease if possible, and secondly, we must demonstrate that we are doing so. We also need to investigate whether there is any relationship between the Victorian outbreak and previous outbreaks in New South Wales and elsewhere, to ensure that we are better informed in the future.

NSW Agriculture has a number of eminent people who have great reputations internationally in the management of exotic diseases, but the Auditor-General in his recent report drew attention to what he saw as some deficiencies in the department's management of the previous outbreak in New South Wales. The department has given assurances, though, that it has overcome those deficiencies and we look forward to that good management in the future.

## PETITIONS

### North Head Quarantine Station

Petition praying that the head lease proposal for North Head Quarantine Station be opposed, received from **Mr Barr**.

### Freedom of Religion

Petitions praying that the House retain the existing exemptions applying to religious bodies in the Anti-Discrimination Act, received from **Mr Bartlett**, **Mrs Grusovin**, **Mr Markham**, **Mr E. T. Page**, **Mr J. H. Turner** and **Mr West**.

**Illegal Street Sex Work**

Petition seeking the establishment of a high-level, co-ordinated strategy to address illegal street sex work in residential areas, received from **Ms Moore**.

**National Parks and Wildlife Service Prosecutions**

Petition asking that the National Parks and Wildlife Service be directed to redress the injustice suffered by the Basic family and to ensure that future prosecutions under the National Parks and Wildlife Act are properly and responsibly based, received from **Mr Rozzoli**.

**Manly JetCat Services**

Petition seeking reversal of the decision by Sydney Ferries to stop JetCat services to Manly at 7.00 p.m., received from **Mr Barr**.

**Lane Cove Tunnel Works**

Petition praying that the House initiate a review of Lane Cove tunnel works, received from **Mr Collins**.

**Cammeray Traffic Arrangements**

Petition praying that pedestrian traffic signals be installed at Raleigh Plaza on Miller Street, Cammeray, and that the 1997 traffic study be implemented, received from **Mr Collins**.

**Avoca Drive Upgrading**

Petition requesting that Avoca Drive be upgraded from the Davistown Road intersection to Avoca Beach, and that remedial measures be implemented to prevent traffic build-up at the intersection of Avoca Drive and Empire Bay Drive, Kincumber, received from **Mr Hartcher**.

**Oallen Ford Road Upgrading**

Petition asking that Oallen Ford Road, a major thoroughfare between the Hume Highway at Marulan and the M92 already under construction, be upgraded, received from **Ms Hodgkinson**.

**Wallsend Bus Services**

Petition seeking reintroduction of the 233 bus route from Wallsend to Newcastle, received from **Mr Mills**.

**Moore Park Landscaping**

Petition calling for permanent removal of car parking from Moore Park, and praying that Moore Park be landscaped to the same standard as Centennial Park, with strategic mounding and tree planting to prevent future car parking, received from **Ms Moore**.

**Sydney Harbour Bridge Toll**

Petition requesting reversal of the decision to increase the Sydney Harbour Bridge toll, received from **Mrs Skinner**.

**School Bus Safety**

Petition praying that seats and seatbelts be provided for all students on school buses, received from **Mr Webb**.

**Queanbeyan Traffic Noise Barriers**

Petition calling for immediate construction of noise barriers adjacent to Canberra Avenue, Queanbeyan, received from **Mr Webb**.

**Manly Lagoon Remediation**

Petition praying that funds be made available to assist in the remediation of Manly Lagoon, received from **Mr Barr**.

**John Fisher Park**

Petition praying that the Government support the rectification of grass surfaces at John Fisher Park, Curl Curl, and opposes any proposal to hard surface the Crown land portion of the park and Abbott Road land, received from **Mr Barr**.

**Lake Burrinjuck Water Level**

Petition asking that the Department of Land and Water Conservation be instructed to maintain the level of water in Lake Burrinjuck at a minimum of 45 per cent, received from **Ms Hodgkinson**.

**Skennars Head Coastal Land**

Petition asking that lot 1 Rocky Point Road, Skennars Head, be purchased under the Coastal Lands Protection Scheme, received from **Mr D. L. Page**.

**Hawkesbury-Nepean Catchment Management Trust**

Petition praying that the House reinstate the Hawkesbury-Nepean Catchment Management Trust as soon as possible, received from **Mr Rozzoli**.

**Old-growth Forests Protection**

Petition praying that consideration be given to the permanent protection of old-growth forests and all other areas of high conservation value, and to the implementation of tree planting strategies, received from **Ms Moore**.

**Northbridge Primary School**

Petition seeking permanent classrooms to replace temporary demountable classrooms at Northbridge Primary School, received from **Mr Collins**.

**Casino Policing**

Petition requesting increased police numbers at Casino and that the police station be manned 24 hours per day, received from **Mr George**.

**Albury Electorate Policing**

Petition asking for increased police presence in Henty, Culcairn, Walla Walla and surrounding areas, received from **Mr Glachan**.

**Cronulla Police Station Upgrading**

Petition praying that the House restore to Cronulla a fully functioning police patrol and upgrade the police station, received from **Mr Kerr**.

**Illawarra Policing**

Petition requesting provision of increased police resources in the Illawarra region, received from **Mr Markham**.

**Surry Hills Policing**

Petition praying for increased police presence in the Surry Hills area, received from **Ms Moore**.

## QUESTIONS WITHOUT NOTICE

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### TREE POISONING

**Mr BROGDEN:** My question without notice is addressed to the Minister for Forestry. Why does the Minister continue to deny that he misled Parliament about tree poisoning, given that leaked documents from the Treasurer's office show that the poisoning continued after the Minister said it had stopped, and State Forests officials believe that the whole issue was so badly managed it could have stopped the Mogo charcoal plant and the Lithgow smelter?

**Mr Carr:** Which you opposed.

**Mr YEADON:** As the Premier rightly says, the Opposition opposed the Mogo plant. An email, which is in the Opposition's possession, was written by a State Forests officer who confused two programs in the south of the State in two distinct management regions. At that time the Chief Executive Officer of State Forests clarified the issue for that officer. The officer was counselled not so much about his confusion but about where the email went.

**Mr SPEAKER:** Order! I call the honourable member for Murrumbidgee to order.

**Mr YEADON:** Importantly, the Hon. Lee Rhiannon asked a specific question about a herbicide post-harvesting program in the south of the State. The program was occurring in only one location at that time, which was the southern region. My response to Parliament is absolutely accurate in that when the honourable member raised the issue we ceased that herbicide injection post-harvesting program. If the Leader of the Opposition read the question he would see that the Hon. Lee Rhiannon was very specific. She included the word "post-harvesting" because she wanted to ensure that she addressed that particular program, which had ceased in October.

State Forests was concerned about a pre-harvesting herbicide program in south-eastern New South Wales in a different management area. In late November or early December the decision was taken to cease that program also. The question placed on notice by the Hon. Lee Rhiannon, to which I replied, specifically referred to that program and included post-logging in the question. Therefore, the Parliament has not been misled in relation to that matter.

### CIVIL LIABILITY INSURANCE

**Mr TRIPODI:** My question without notice is directed to the Premier. What is the latest information on insurance and related matters?

**Mr CARR:** Yesterday I introduced the Government's Civil Liability Bill, which is stage one of our package.

**Mr SPEAKER:** Order! I place the honourable member for Wakehurst on two calls to order.

**Mr CARR:** The bill is stage one of our package to address the crisis in public liability insurance. The Deputy Leader of the Opposition is interjecting. If I were in his position, I would not draw attention to myself in this debate. Because, on a day when builders have demonstrated against the Government, I am reminded that on 17 April the honourable member, on radio 2GO—once again, full marks to the Stasi for seeing that everything is tracked—said:

I welcome the decision by the Government to provide some assistance for builders and for consumers until more insurers can be brought back into the market place.

A bit of support for the Government from the Deputy Leader of the Opposition is worth noting. I return to the question I was asked, which is about civil liability reform. Some people seem to assume that every claimant will be worse off under the Government's bill. Indeed, this seems to be the scare tactic that the Opposition and some lawyers are attempting to run. The Opposition raised a case this morning. All I can say about that is that it is wrong to say that the Government's bill will make all claimants worse off. In fact, the actuarial advice I released yesterday shows that more seriously injured claimants will be better off under the Government's reforms. No-one's medical expenses are affected by the bill. The cap on damages for loss of earnings will affect only high-income earners.

On the issue of general damages or damages for pain and suffering, seriously injured claimants will be better off. Our actuarial advice makes that very clear. The threshold we are introducing for pain and suffering is designed to stop the pot-of-gold lump sums for small claims, that is, the less seriously injured. I do not know the extent of injuries suffered in the case raised by the Opposition today, but I cannot believe that someone who is found to have suffered horrific injuries would be below the threshold we are introducing; they would be above the threshold. The Opposition talks about removing the retrospective element from the Government's legislation. Look at what happened with the Government's health care liability reforms last year! We gave people notice of what would be done, and the result was a flood of claims worth \$140 million.

**Mr SPEAKER:** Order! I call the honourable member for Wakehurst to order for the third time.

**Mr CARR:** You are one out because the Prime Minister supports what New South Wales has done.

**Mr Hazzard:** He doesn't know what he is talking about.

**Mr CARR:** A Liberal is saying that the Prime Minister does not know what he is talking about. Is the honourable member for Wakehurst part of a Costello push in this Parliament?

**Mr Hazzard:** Point of order: The Premier has not told the Prime Minister the truth. He has not said that people with disabilities will lose their rights under his bill.

**Mr SPEAKER:** Order! There is no point of order. The honourable member for Wakehurst will resume his seat.

[Interruption]

**Mr SPEAKER:** Order! I have called the honourable member for Wakehurst to order three times, and the Premier is answering only the second question. I suggest that the honourable member for Wakehurst control himself, or he will be removed from the Chamber.

**Mr CARR:** What a sad, volatile personality! It is the kind of thing I was talking about at the State Australian Labor Party conference on the weekend. All these relics of the Greiner years, backbenchers and frontbenchers, present themselves as capable of doing serious work. Honourable members will have noticed the display by the honourable member for Wakehurst. And what shadow responsibility does he have? Community services! Obviously he is too excitable a personality to be trusted with anything that has responsibility associated with it. Enough of these distractions—let us move on.

**Mr Hazzard:** Point of order: I ask you to direct the Premier not to make a personal attack on me. There are forms of the House that allow that and allow me to respond to why I am standing up for people with disabilities whereas the Premier does not seem to understand those issues. It is not fair that you direct me not to respond when he is deliberately baiting me. I am standing up for people with disabilities who would like to be able to bring actions and who are losing that right with the compliments of this Premier.

**Mr SPEAKER:** Order! There is no point of order. However, I ask the Premier to return to his answer to the question asked by the honourable member for Fairfield.

**Mr CARR:** Nobody's medical expenses will be affected by the bill. The advice I released yesterday shows that the more seriously injured claimants will be better off under the Government's reforms. On the issue of general damages, or damages for pain and suffering, our actuarial advice shows that seriously injured claimants will be better off. The threshold introduced for pain and suffering is designed to stop the pot-of-gold lump sums for small claims, that is, for the less seriously injured only. I cannot believe that someone who is found to have suffered horrific injuries would be below that threshold: They would be above it and in that other category.

In seeking to remove retrospectivity from the reforms, the honourable member for Vacluse said that the bill creates two classes of people. At the present time there are two classes of people. There are the people watching as their local festivals are cancelled, their sporting activities shut down, the tourism industry of the State crippled and the very community of life being brought to a halt, and there are those taking advantage of the system. What is the solution of the Opposition to the crisis? Yesterday I quoted what one of its shadow Ministers, Mr Duncan Gay, said in the *Trangie Advocate*. Today let me quote what he said in the *Narromine News*.

**Mr Slack-Smith:** Point of order: Yesterday and today the Premier mentioned the *Trangie Advocate*. There is no such newspaper.

**Mr SPEAKER:** Order! There is no point of order.

**Mr CARR:** Tell that to all those who subscribe to one of the great newspapers of New South Wales, the *Narromine News and Trangie Advocate*. Members of the Opposition just do not know rural New South Wales. What did the shadow Minister from the upper House say? He said he would not play politics with the Government's reforms.

**Mr SPEAKER:** Order! I call the honourable member for Murrumbidgee to order for the second time.

**Mr CARR:** He said they would let the Labor Government's policies go ahead without objections. He admitted the Coalition had no plans to improve on the New South Wales Government's public liability changes. He said, "We're staying out of it. Therefore, we will not go any further than the State Government." That is the approach of the Opposition. Last year when we tackled health care liability reforms, there was a flood of claims worth \$140 million, the equivalent of about three years worth of claims, and they all arrived, as the Minister can recall, in a couple of months. Two times what was expected in one year arrived in two months, on top of what was expected for the year in any case. We cannot afford this sort of jump in claims on public liability. We know there is a crisis, and this Parliament ought to act decisively to see that the Australian way of life is not destroyed by the crisis in public liability insurance.

**Mr SPEAKER:** Order! I call the honourable member for Oxley to order.

**Mr CARR:** I can see that some people are honest and candid enough to say that the New South Wales approach passed late last year is a model for a solution around Australia.

**Mr Souris:** Who said that?

**Mr CARR:** Dr Kerry Phelps says that.

[*Interruption*]

The honourable member for North Shore should listen to me. This is not the happy positive honourable member who entered this Parliament it seems but a short time ago. She is becoming a bitter person. On 28 May at 8.25 a.m. on Radio 2UE, when asked about what State and Federal Governments needed to do, Dr Kerry Phelps said, "Well, the New South Wales Government has done just about all it can do." She said:

There are a few bits of fine tuning that they are currently working on and certainly this is wrapped up in the public liability issue as well.

That is legislation members of the Opposition are now seeking to defeat. She continued:

But the other States around Australia need to put forward their solutions ...

Today the editorial of the *Australian Financial Review* says very generously, "Mr Carr has been the most clear sighted of the Premiers on the issue." I would not say that. It is not the kind of thing I would say but having been said by a great national newspaper, I think honourable members would agree, I am more or less obliged to share the information with the House. The Prime Minister of Australia—somebody who has never been quoted and encouragingly supported by the honourable member for Wakehurst, but we want to give him a run—has generously acknowledged our efforts to resolve this problem. I note in an address to the Council of Small Business Organisations of Australia the Prime Minister said:

We do need to reform the law of negligence in this country and I welcome the fact that most of the States are starting to move in that direction.

**Mr SPEAKER:** Order! I call the honourable member for Oxley to order for the second time.

**Mr CARR:** He is not too slow, he said that on May 29 and it came off his web site. The Opposition is attacking the Prime Minister again. Mr Alan Dwyer, General Manager, Orange City Council and Deputy Chairman of Statewide Mutual, said that he is very pleased with the contents of the draft legislation. Statewide is a mutual fund that carries the public liability and property risk for 144 of the 172 general purpose local government authorities in New South Wales. In a letter sent to me today he wrote:



Early indications are that the legislation will help Statewide negotiate a better deal for its insurance renewals on behalf of all member councils with its London underwriters.

In other words, help them get the capital they need to run these policies. The legislation is considered to be a major factor in the campaign to control the spiralling public liability premiums and should be welcomed by all responsible people.

[Interruption]

Would the honourable member opposite use his handkerchief when he sneezes. Isn't that appalling! You would think they would enforce basic standards of hygiene. No wonder colds and the flu are spreading. It went right into his hand. I am standing here and I have to watch it. That is probably another factor feeding into the insurance crisis! Unbelievable standards! It is very pleasing to see that people like Alan Dwyer are saying the right thing. I urge them all to join with me in calling on the Prime Minister to ensure that the benefits of our reforms are passed on to consumers via pressure on the insurance companies through the ACCC.

### HOME WARRANTY INSURANCE

**Mr SOURIS:** My question is directed to the Minister for Fair Trading, who said on 2 April that the Government had developed a home warranty insurance scheme which provides protection for home buyers, a healthy building industry and a viable market for insurers. Will the Minister now admit that the scheme his Government produced is fundamentally flawed, and advise the House how he intends to rectify this disaster?

**Mr AQUILINA:** Why would I do what the Leader of the National Party urges me to do when we have endorsements such as "Builders welcome warranty changes"?

**Mr Brogden:** They were not welcoming them today. Hundreds who demonstrated outside Parliament today wanted your scalp.

**Mr AQUILINA:** That is not what you said when you were a staffer of a former Minister in the previous Government, which did away with the Building Services Corporation and privatised the scheme.

**Mr SPEAKER:** Order! I call the honourable member for Murrumbidgee to order for the third time.

**Mr AQUILINA:** In early May the New South Wales Government put forward its assistance package and legislative reform in response to the collapse in the home warranty insurance industry. Our package, along with that of the Victorian Government, has been widely and well received as an appropriate and timely response. In developing that package, the New South Wales Government has consulted and listened to builders and industry groups, and continues to do so. While we are monitoring daily the performance of insurance, we are continuing to talk to builders, industry groups and insurers in the market.

**Mr SPEAKER:** Order! I call the honourable member for Oxley to order for the third time.

**Mr AQUILINA:** Our approach was praised in the *Australian* by senior columnist Robert Gottlieb back in March this year.

**Mr SPEAKER:** Order! I call the honourable member for Myall Lakes to order.

**Mr AQUILINA:** He said:

The new housing insurance deal in NSW and Victoria is a copybook example of what government and industries need to do to solve the insurance crisis.

Mr Gottlieb is a far more authoritative person than the Leader of the National Party.

**Mr SPEAKER:** Order! The Leader of the National Party will remain silent.

**Mr AQUILINA:** It is not just media and interest groups that acknowledge the soundness of our response. The Premier already has referred to the endorsement of the Deputy Leader of the Opposition, who said on 17 April on 2GO radio:

I welcome the decision by the government to provide some temporary assistance for builders and for consumers until more insurers can be brought back into the market place.

The Government's response, and that of the Victorian Government, has already seen positive movement in the market from major insurer Royal and Sun Alliance. On 16 May that insurer announced that it would remove restrictions on builders securing insurance cover.

**Mr Brogden:** They have got to put enormous cash sums on the line now. They have to put their houses on the line with you.

**Mr AQUILINA:** Opposition members clearly do not know what they are talking about. I quote no less an authority than Mrs Elizabeth Crouch, from the Housing Industry Association.

**Mr SPEAKER:** Order! The Leader of the National Party has asked a question. I suggest that Opposition members listen in silence to the Minister's answer.

**Mr AQUILINA:** She said:

This will relieve a lot of business and personal stress from builders because it puts them on an equal footing with other businesses.

**Mr Brogden:** Point order: The Housing Industry Association has a commercial deal with Royal and Sun Alliance. What else would you expect them to say, you idiot?

**Mr SPEAKER:** Order! The Leader of the Opposition should be more circumspect in his use of language in the House. I will ignore the interjection.

**Mr AQUILINA:** Again I make the point that the provision brought in by this Government will put them on an equal footing with other businesses which are required only to demonstrate that their business is financially sound. Who would demand less than that builders be requested to ensure that their businesses are financially sound, in the same way as any other business would be required to do? We are insisting on improvements from insurers so that they remain in the field and provide building warranty insurance at an affordable price and in a timely way. We have heard a few outrageous statements from the Leader of the Opposition, but the Coalition's position on home building warranty is muddleheaded. The Deputy Leader of the Opposition has praised our approach, but the Leader of the Opposition is all over the shop. He is talking about restoring the Building Services Corporation, which his Government abolished.

**Mr SPEAKER:** Order! The Leader of the National Party will cease interrupting.

**Mr AQUILINA:** It was the last Coalition Government which, when the Leader of the Opposition was a ministerial staffer, recommended that insurance in this area be privatised. He was a party to that. It was the Coalition's building industry royal commission report and later inquiries which recommended the dissolution of the Building Services Corporation. Years later, this Government is grappling with the pressures affecting the industry and is monitoring daily the response of builders and insurers. We are also monitoring the Opposition. True to form, they are at it again. On the one hand they say that the Government has introduced its reforms and is waiting in hope for possibly other insurers to enter into the market. The honourable member for Orange was reported in the *Canowindra News* of 22 May to say:

The Coalition wants to see at least two new insurers introduced into the market, a reduction in premiums and an increase in access to insurance for builders, without having to hock their family homes.

On the one hand they also, like the Government, want to see more insurers come into this market. On the other hand the Leader of the Opposition, in a muddleheaded way, talks about reintroducing the Building Services Corporation. As usual, they have no policy, just a statement for all times and all circumstances.

### SELECTIVE HIGH SCHOOLS SELECTION PROCESS REVIEW

**Miss BURTON:** My question without notice is to the Minister for Education and Training. What is the latest information on selective schools in New South Wales?

**Mr WATKINS:** Over recent weeks the placement process for students in our State's selective high schools has been an issue of some debate in the community. Selective high schools play an important role within the public education system. They are a key plank of the Government's system of providing for gifted and talented students. They are part of the important whole of our public education system. The concept of

academically selective high schools has a long tradition in this State. The first government high schools were established back in 1883 in Bathurst, Melbourne and Sydney. These schools were designed specifically for students who wanted to go on to university study. Selective entrance to the schools was through a competitive examination. Since then the New South Wales State system has grown. There are now more than 400 secondary schools and academically selective high schools, with entrance based on academic achievement remaining an integral part of that system.

Today there are 28 selective high schools, 21 fully selective schools, including four agricultural high schools, and seven high schools with selective classes. In total, they educate just on 20,000 students—intelligent, articulate young women and young men, for example, from Merewether High School in the Hunter to Smiths Hill in Wollongong, from Hornsby Girls to Caringbah High, from Manly High to Girraween, and from Fort Street in the inner-west of Sydney to Yanco Agriculture in the Riverina. These schools have an important place in the education of our children. Although demand for year 7 placements in selective high schools is high, it has been stable for approximately the past six years. This year there were 16,343 applications for 3,374 year 7 places. It is therefore not surprising that students, their parents and schools are concerned that the system is fair, open to all, and ensures that academically gifted children gain a complete education—an education of the whole person.

In the present selection process, students compete academically with all other candidates for year 7 placements. Entry is determined by achievement in the entrance tests together with primary school assessment of students' performance in English and maths. There is also the opportunity for additional information about the student to be considered by the selection committee at each school. The current procedures have remained virtually unchanged since 1989. An internal review that was undertaken by the department late last year and earlier this year has been completed. Changes have been recommended in the selection process to take into account concerns raised by principals, teachers and parent groups.

After the review's recommendations were given to me, I requested a discussion paper to be developed to explore possible improvements that may be implemented from next year. Today I released the discussion paper for public consultation. The paper includes several suggestions for change, including changes to external tests. The paper asks whether the Government should examine providing a more streamlined external test combining English, maths and general ability items and whether a writing component should be included in the external test.

The paper also seeks public comment on coaching colleges' preparation of students and whether the colleges should be regulated. The community's views are also being sought on internal school assessment, the provision of school marks by students attending non-government, interstate and overseas schools, the need for additional comments from parents and school principals, the provision of exemptions for certain students, the appeal process, and the provision of sample tests for candidates.

In his first report, Professor Tony Vinson says he will comment on selective schools in forthcoming reports. The Government will take any comments or recommendations arising from Professor Vinson's review into consideration through the newly established Public Education Council. The Government's agenda is clear—we want to lead an informed effort towards a fairer and more equitable selection process for year 7 students who wish to attend a selective or agricultural high school. Whatever changes may be made arising from the review, selection on academic merit will remain the cornerstone of the system. Comments are sought from everyone who may be interested. The document is available on the Department of Education and Training web site. Submissions are open until Friday 26 July 2002.

### CIVIL LIABILITY INSURANCE

**Ms SEATON:** My question is directed to the Premier. How can you possibly justify discriminating against Serena D'Orazio, who suffered horrific burns from an exploding gas cylinder, simply because her claim against private companies was not commenced by 20 March 2002, while at the same time an adult with lesser injuries but with an action against the Crown has until 1 September to commence legal action for compensation?

**Mr CARR:** I very deliberately answered precisely that question in my earlier answer when I made specific reference to the situation of someone with horrific injuries.

### BREWARRINA CRIME PREVENTION STRATEGY

**Mr BLACK:** My question without notice is to the Attorney General. What is the Government's response to community concerns about antisocial behaviour in Brewarrina?

**Mr DEBUS:** Late last year I met with the mayors of Brewarrina and Bourke and the honourable member for Murray-Darling to discuss ways in which to start to break the cycle of crime in those communities. I was impressed by the attitude of those representatives to this difficult issue: They wanted tougher law enforcement of course, but they also wanted to talk about ways in which to intervene early in the case of young people on the verge of a possible life of crime—young people caught up in a generational cycle of crime. Those people, quite rightly, take pride in their community. Honourable members of this House who have travelled in that part of the State will be well aware of its striking natural beauty, the profusion of wildlife, and the potential for tourism and economic development. People in Darling River towns generally want the world to know them for those positive features, not for negative images of crime and disorder.

In February this year I visited Brewarrina to discuss with a group of representatives from right across the community the best way to give concrete and practical assistance to bring about real change in those communities. The community welcomed initiatives such as the Government's new bail laws and the establishment of circle sentencing, and they wanted to discuss practical ways of getting improved social support in the area. At my request, the Premier assigned former Commander Clive Small, or Mr Clive Small as he now is, as one of his first initiatives during his secondment to the Premier's Department, the task of undertaking urgent discussions with the Brewarrina community about solutions that they felt would make a real difference to conditions in the town. The people did not want corporate plans, they did not want performance indicators, and they did not want strategic focus groups—they wanted some answers.

I am happy to say that those consultations have resulted in some very practical projects, and that will certainly please the honourable member for Murray-Darling. Brewarrina has already received funding for community projects under the Government's \$2.1 million River Towns project, and work is progressing rapidly in Walgett, Wilcannia and Bourke. The Government will provide the Brewarrina community with an additional \$324,000 in funding for crime prevention and community development strategies. This funding will allow the implementation of sensible, locally driven initiatives. Too often in the past committees have come up with solutions, only to have their ideas fall in a hole because they do not fit neatly under a single department's traditional responsibility. In contrast to that, the River Towns project works in a way that respects local knowledge, shows confidence in communities identifying their own solutions to their own problems, and acknowledges that government needs to be flexible enough to operate independently of traditional bureaucratic divisions.

I cannot overemphasise the need to recognise that many communities have the knowledge and the skills to solve their own problems. I have been particularly impressed—as have other honourable members of this House who have visited Brewarrina, such as the Parliamentary Secretary Assisting the Deputy Premier on Aboriginal Affairs, Colin Markham—by the increasing level of local activism and commitment that is evident in the work of the Aboriginal and Torres Strait Islander Commission working party, the local non-government organisations, the Brewarrina Shire Council and the community at large. All the initiatives funded in Brewarrina have been identified through local community consultation. Community organisations, local government and major State agencies work together to address priority issues that affect the town.

Throughout the process the Aboriginal community working party has played an absolutely important role in identifying problems and developing solutions. The commonsense initiatives that have been developed are a mix of capital and development projects to be funded over four years. They include an upgrade of the Brewarrina Youth Centre and its facilities. The centre operates at least five nights a week, with up to 150 youths in attendance. Funding will go towards improving the kitchen to enable cooking classes and providing food for young people. It will enable the repair of toilets and the refurbishment of an activities area. We will provide new dollar-for-dollar funding to supplement the funds already provided by the Department of Community Services to upgrade equipment at the centre and to provide outdoor recreational activities in support of cultural camps. The various activities and camps will cater for around 50 young people each month.

**Mrs Chikarovski:** Give credit to the Slack-Smiths and the locals who are doing the work.

**Mr DEBUS:** No, it is not the Slack-Smiths at all; it is the New South Wales Government. When I spoke to community stakeholders in Brewarrina, in particular to police—

**Mr Slack-Smith:** Point of order: I acknowledge the great work that the Minister is doing in my electorate, but the people in the community are doing all the hard work; not the State Government.

**Mr SPEAKER:** Order! The Minister has the call.

**Mr DEBUS:** When I spoke to people in Brewarrina, and particularly to the police, they made it plain that there was a vital need to support parents and families. Nothing could be more disheartening for a police officer than to take a young offender off the street and home to a family where there is no food, drunkenness and abuse. That is a recipe for future crime. So the Family Support Program, through the provision of family support-style intervention—building self-esteem and providing life skills and parenting education—is a most important initiative that will directly cater for up to 75 families—a significant number of families in a small town the size of Brewarrina.

The benefits of the program will spill over to a significantly larger group in the community. This proposal has been endorsed by the Nyamba community working party and at present it is being further developed using successful intervention models and being run by Aboriginal organisations. We will also establish a senior youth programs officer position for a period of three years to support and divert young people aged 15 to 24 years towards constructive activities and educational and training programs. We will implement two specific services tailored to the needs identified in community consultation. The first is the community drug action team.

In response to community demand, the community drug action team, which will be created, will comprise government, non-government and community representatives who will work within the framework of existing agency and community structures and partnerships to develop and implement a local drug action plan. Many Opposition members seem to be bored with this, but I am talking about a practical program of great significance to people in what has been a very troubled town. If we do not get this right we will not be able to look ourselves in the eye.

The second service is the provision of a specialised Department of Community Services case worker, whose primary aim will be to engage with families, in collaboration with other local and specialist services, and target those factors in families that lead to child abuse and neglect. Each of these new initiatives will work to complement existing government-funded programs in Brewarrina. The proposals are directed specifically at addressing social disadvantage factors experienced by the community as a result of its location. The proposals are intended to reduce disorder and street crime; to improve relations between Aboriginal and non-Aboriginal communities, especially young people; to foster healthier families with a reduced impact of domestic violence and alcohol abuse; and to improve school retention rates and education achievement, particularly by young Aboriginal people.

We know for a fact that locally driven programs supporting young people and families can have an enormous impact on community safety and wellbeing. Through the work of the Crime Prevention Division of the Attorney General's Department we have learned that a single community night patrol can reduce violent crime to the extent that ambulance calls drop by 75 per cent on the nights a patrol operates. A simple project involving young people building and racing go-karts can dramatically reduce car theft. Staffing of a youth centre can contribute to a reduction in break-and-enter offences of up to 50 per cent. Direct engagement of communities and the provision of an integrated government response to their needs can produce the most powerful results. I commend the work of the community working party of Brewarrina Shire Council and all those who have taken part in the development of the Brewarrina strategy. I look forward, with the honourable member for Murray-Darling, to making similar announcements in Wilcannia, Walgett and Bourke in the near future.

#### CIVIL LIABILITY LEGISLATION

**Mr ARMSTRONG:** My question without notice is directed to the Premier. With almost four weeks of Parliament left before the winter break, what is preventing the Premier from accelerating stage two of the Civil Liability Bill in order to remove the threat of total cessation of the State's equestrian movement and the uncertainty surrounding other businesses which provide adventure activities containing an element of risk?

**Mr CARR:** Opposition members cannot even tell us what their attitude is to stage one of the bill, let alone to stage two. I directly answered this question yesterday when I pointed out that stage one of the bill translates into the area of civil liability—principles that we have already established relating to motor accidents,

workers compensation and medical indemnity. By the way, Opposition members have just announced that they have caved in to the plaintiff lawyers on stage one and they are going to reduce the effectiveness of this legislation.

**Mr Armstrong:** Point of order: My question was quite specific. I referred in particular to the State's enormous equestrian industry. I ask the Premier to address the purport of my question.

**Mr SPEAKER:** Order! There is no point of order.

**Mr CARR:** First, we propose in legislation, which Opposition members have just said they will attempt to gut in the other House, to establish limits on damages which will have a direct effect on the conduct of equestrian events. The Leader of the Opposition is saying that members of the Opposition will gut the legislation and remove retrospectivity. They cannot have it both ways.

**Mr SPEAKER:** Order! I call the honourable member for Vaucluse to order.

**Mr CARR:** This is a pantomime horse Opposition. Opposition members say that in the upper House they will gut the legislation and remove direct retrospectivity from it. They say they will do that, but the honourable member for Lachlan says that the legislation is not going far enough. Opposition members will not even say they will allow stage one through the Parliament. I said in my statement yesterday that the first stage of our legislation deals with principles that we have already written into the legislation relating to workers compensation, medical indemnity, health and motor accidents.

**Mr SPEAKER:** Order! I call the honourable member for Myall Lakes to order for the second time.

**Mr CARR:** In stage two we will be doing something that no government anywhere in Australia, or at an earlier time in this State, has done. We will be comprehensively reforming the law on negligence, but it requires painstaking work.

### LAMB EXPORT MARKETS

**Mr MARTIN:** My question without notice is to the Premier. How is the Government helping local lamb producers gain new export markets?

**Mr CARR:** We are doing a lot of constructive work with the industry and I am proud of the results. The lamb industry supports 56,000 jobs, from Glen Innes in the north, Oberon and Dubbo in the central west, to Wagga Wagga and Albury in the south. Speaking about Dubbo, a very interesting letter came my way. Perhaps it is a forgery; I cannot vouch for its accuracy. The letter is from Ben Shields, a Liberal councillor on Dubbo City Council, addressed to the Leader of the Opposition. I know the honourable member for Dubbo will be very interested in this. It is all about this question and a major lamb producing region. One would think people would be focused on the opportunities provided by the lamb industry, which supports 56,000 people across the State. Paragraph 6 of the letter reads:

The National Party ... cannot defeat Tony McGrane. Mr McGrane has increased his support base in the centres outside of the city of Dubbo—Dubbo was his original power base for the 1999 state election and since then Tony McGrane has spent much time and effort in Wellington, Parkes and Narromine.

Until the last State election Tony McGrane was relatively unknown in those towns. The letter continues:

Commonsense indicates that with his continued popularity in Dubbo—

How flattering to the honourable member, in a letter addressed to the Leader of the Opposition by the Secretary of the Liberal Party in Dubbo. It is like lambs to the slaughter! The letter goes on:

Commonsense indicates that with his continued popularity in Dubbo—

obviously, of legendary proportions—

and increased voter approval in the other areas of the seat of Dubbo he will win the seat with a more comfortable margin.

That letter is from the Secretary of the Liberal Party, apparently. I think the good news in the lamb industry will only help the regard in which the honourable member for Dubbo is held in that seat. In the late 1980s the lamb

industry was in decline. Lambs fetched low prices at auction, consumers regarded the meat as too fatty, and consumption declined by 5 per cent every year. However, larger and leaner carcasses are now produced all year round, which means healthier meat. But some people have not got the message. An email from Catherine Cusack, a preselected Liberal candidate for the upper House, addressed to the State Director of the Liberal Party, refers to that party's chances in the seat of Northern Tablelands. All the guff about the party's popularity and its increasing hold on the seat is in the email. But it also says that in a major lamb-producing region—

**Mr O'Farrell:** Point of order: I remind the Premier that on the basis of legislation introduced by the Attorney General, misuse of information is an offence in this State. The document is not addressed to the Premier.

**Mr CARR:** No, it is directed to the State Director of the Liberal Party by Catherine Cusack. I did not want to create an embarrassment for anyone, but the email ended up with me, and this is what it says.

**Mr Piccoli:** Was it sent to Tony Kelly?

**Mr CARR:** No. A copy was sent to the Hon. Dr Brian Pezzutti. I do not want to detain the House with reading all the flattering comments about the popularity of the local Independent member, and I do not want to embarrass him in front of his colleagues. The email goes on to say this about the Nationals:

The Nationals are likely to stand a local businessman who will have the resources to fund a campaign. He is apparently grotesquely overweight which may undermine his campaign presentation.

While lamb is now much leaner meat, I still must venture a cautionary warning against over-consumption, because it could do electoral damage. If it comes to the attention of Catherine Cusack of the Liberal Party, she is likely to shoot off an email to the State Director of the Liberal Party. She says other things in her email, some of which are relevant to lamb-producing regions. For example, in relation to the Clarence electorate she says:

In Clarence if the Nationals select ex boxer Steve Cansdell again there will be a strong independent conservative in the election which will probably cost us the seat.

The document is full of candid comment. I do not know why they put me on their mailing list. There might be opportunities in Port Macquarie, for example. I am not suggesting that there is a lamb abattoir in the main street of that coastal tourist centre. Indeed, the honourable member would be justly alarmed if I gave that impression. Catherine Cusack goes on to say:

The information given to the forum on Sunday suggests Port Macquarie has already been allocated to the National Party. A three-cornered contest with Oakeshott in the field would clearly be a disaster for all of us. I understand this is the view of local Liberals. The seat now is a probable loss to Wayne Richards, ALP Mayor, back in his position by NP councillors. Port Macquarie has developed into a natural Liberal seat, and I obviously find it disappointing that such poor National Party management of this seat has been rewarded with exclusive running rights. Hopefully, something truly wonderful has been offered by them in return.

I do not want to get onto this; I want to stick to lamb because the industry is generating jobs right across rural New South Wales. New South Wales Agriculture worked very hard, taking a leading role in research, production and marketing. A key element was a national genetic evaluation program called LAMBPLAN, in which New South Wales Agriculture was instrumental. LAMBPLAN tests over 70 per cent of rams used to produce prime lambs throughout Australia. It is a significant breakthrough. This is Australian biotechnology on the move. I hope the Minister will extend my congratulations to all who played a role in the program.

Lamb exports have jumped from \$99 million in 1998-99 to \$178 million in the 12 months to July 2001. Thirty-five per cent of our lamb is now exported, and half of it goes to the toughest market of all, the United States. Honourable members would remember that we faced a protectionist decision as a result of protectionist pressure in the United States Congress, and it is a great tribute to our lamb producers that half of it gets into that market. I think we should all work together on this. This is in Australia's national interest. I am delighted with what the officers of New South Wales Agriculture have done, and I hope the Minister will convey to them the congratulations of all members of the House.

## **TOW TRUCK INDUSTRY**

**Mr DEBNAM:** My question is to the Minister for Transport. Given that truck operator Albert Brikha was murdered four years ago and the Tow Truck Authority has since spent \$7.9 million without implementing the job allocation scheme, which was the main recommendation of the Anderson review, how much has the Minister paid Labor mate Peter Anderson as a consultant and chairman of the authority?

**Mr SCULLY:** That is unnecessarily insulting to a person whom I thought was held in high regard by both sides of the House. I was advised that the former shadow Minister for Transport was quietly consulted before the appointment was made and indicated that he was happy with it. I am disappointed that a person I hold in high regard and who has done a terrific job—

**Mr Debnam:** How much?

**Mr SCULLY:** The honourable member shows complete ignorance. He has been in this job only a month or two and he has made a joke of it. I am happy to have him briefed on all of the changes that have been made in the tow truck industry.

**Mr Debnam:** How much?

**Mr SCULLY:** I think he is paid the standard rate for a chairman. It is in the area of \$30,000 or \$40,000 year. It is on the record; it is no secret. He has done a fine job. He has lifted the performance of the tow truck industry. The occupational health and safety issues were absolutely disgraceful when I was appointed Minister for Transport. I was very concerned that people were wandering around in stubbies and thongs. We have lifted that performance. A lot of tow truck operators were barely paying workers compensation premiums. The state of the industry is much better than it was prior to Peter Anderson's appointment. In relation to the job allocation scheme, yes, we made a commitment to introduce the job allocation scheme. We remain committed to it but it will be introduced at a time and place when the community is ready to receive it.

**Mr DEBNAM:** I ask a supplementary question: Given the Minister's response and the continued violence and intimidation, why has the Tow Truck Advisory Council not met for five months?

**Mr SPEAKER:** Order! That is not a supplementary question.

**Mr Debnam:** Point of order: The Minister has just spent two minutes talking about all the reform he has done—

**Mr SPEAKER:** Order! There is no point of order.

#### REGIONAL FILM-MAKING INDUSTRY PROMOTION

**Mr GAUDRY:** My question without notice is to the Minister for Regional Development, and Minister for Rural Affairs. How is the Government encouraging film-making in regional New South Wales?

**Mr WOODS:** I thank the honourable member for his continuing interest in the economic development of regional New South Wales. From the ocean to the outback, New South Wales has some of the world's most striking film locations. The advantages of filming in New South Wales are now being recognised all over the world, with major motion picture productions taking place both in Sydney and in country New South Wales. Films such as *Oscar and Lucinda*, *Mission: Impossible 2* and *The Matrix* have been produced right here in our own backyard. The film and television industry in New South Wales has grown by 73 per cent since 1995 and contributes \$3.5 billion of revenue to the State. Country areas have shared in this growth. Over the past five years feature and documentary productions have pumped at least \$10 million into the regional economies of New South Wales and have directly employed almost 3,000 local people on local productions.

The Government has seized on opportunities to promote the benefits of filming in regional New South Wales and sponsored the pilot Ocean to Outback film tour two weeks ago. This tour took eight television commercial and film producers to prime film locations in the Hunter and Broken Hill. I can report to the House that the film tour has already resulted in at least three Indian film crews planning productions, in part based on photographs taken on the tour. It has also generated a lot of media interest, including a large article in this week's edition of the *Indian Post*. One tour participant, Anu Sharman, of Bollywood fame, wrote to me last week about the tour, and said:

This initiative was extremely beneficial to me and will go a long way in attracting more film crews, particularly from India, which is the largest producer of films in the world.

Mr Sharman says that on specific request from Bollywood producers in the next couple of weeks he will be scouting locations in the Hunter and in the Illawarra for at least three productions. Mr Sharman's sentiments about the tour are also shared by the others who participated. As a result of the success of the pilot tour, I can



announce that the State Government will produce a promotional brochure on film locations in rural and regional New South Wales. It will be distributed overseas as well as to interstate film and commercial producers and industry organisations. Finally, I congratulate the Department State and Regional Development, the New South Wales Film and Television Office, the Newcastle and Hunter Television Office, Film Broken Hill and all the others involved in the tour for making it a great success. The Government is planning a further industry-focused tour in the future modelled on the successful pilot film tour.

#### **DEPARTMENT OF COMMUNITY SERVICES FOSTER CARE SERVICES**

**Mrs LO PO':** Yesterday the honourable member for Wakehurst asked me a question about a so-called leaked Department of Community Services email, making the ridiculous claim that most of the 9,100 children in out-of-home care could not be accounted for by the department. This reveals that the Opposition has got it wrong again. The Opposition need only have consulted the department's annual report for 2000-01 at pages 27 and 28 to get a clear picture of where the 9,100 children in out-of-home care as at 30 June 2001 were located by their current placement type. Out-of-home data is always a snapshot in time, as children and young persons in the out-of-home care system do not constitute a static figure. One could liken it to the hospital system, where patients come in and go out, some for emergency care and others for long-term stays.

Children can come into the out-of-home care system for a variety of reasons: on an emergency basis, for short-term respite placements, or so that court-ordered medical and developmental assessments can be carried out. The picture changes from day to day as children come into care as a result of court action. Some of them are short-term placements for less than two years and some long-term. In some cases children are restored to parents or other family members and move out of the care system. Some are in voluntary care, again for short periods of time, and then return to their families.

I am advised that the memo was part of a regular audit to check the number of staff to cases, in order to prepare for proclamation of remaining sections of the Children and Young Persons (Care and Protection) Act. This was not a secret memo; it was core business. It is an insult to every out-of-home care caseworker to suggest they do not know where children and young people in foster care placements are. The memo was seeking information about how many cases each caseworker had, to confirm that resources were being appropriately allocated to out-of-home care. It also sought to confirm the legal status of children, which is information that can change on a daily basis. Not all children in care need an active caseworker from DOCS, and many are in voluntary placements—

**Mr Hazzard:** Point of order: The Minister had the opportunity yesterday to answer the question about the whereabouts of children in out-of-home care. I have listened intently to what she was saying. She is purporting to give a supplementary answer but is clearly making statements of a ministerial nature, and using her answer to attack me by saying that the email—

**Mr SPEAKER:** Order! What is the member's point of order?

**Mr Hazzard:** The Minister put her supplementary question in the form of a ministerial statement, and I should be able to respond.

**Mr SPEAKER:** Order! There is no point of order.

**Mrs LO PO':** Not all children in care need active casework from DOCS, and many are in voluntary placements, often with extended family members. Many children and their carers do not want or may not need further intervention from DOCS.

**Mr Hazzard:** You don't know.

**Mr SPEAKER:** Order! I remind the honourable member for Wakehurst that he is on three calls.

**Mrs LO PO':** It is the existence of such cases that prompted the introduction of new permanency planning laws last year, to facilitate the adoption or permanent placement of these children where appropriate. Just because the case does not require active case work does not mean that children are unaccounted for. My advice is that the department regularly requests up-to-date information to track the number of children in out-of-home care at a point in time. It is disappointing that the Opposition continues to get it wrong.

**Questions without notice concluded.**

## CONSIDERATION OF URGENT MOTIONS

### Federal Transport and Road Funding

**Mr BROWN** (Kiama) [3.59 p.m.]: My motion should be debated urgently because councils throughout Australia are suffering from the Federal Government's \$100 million cut to the Roads to Recovery program. It is urgent because the recent Federal budget again cut funding to the national highway system—a cut that totals \$582 million since the Howard Government was elected. For the sake of residents, businesses and primary producers across regional and rural New South Wales, these funding cuts need to be reversed now.

### Hospital Emergency Department Patient Access

**Mrs SKINNER** (North Shore) [4.00 p.m.]: I submit that my motion, which notes the chaos in hospital emergency departments, with personal horror stories highlighting the plight of more than 35,000 patients who have waited longer than considered appropriate over the past month—

**Mr Moss:** Point of order: I seldom rise on a point of order. Mr Speaker, time and again you have ruled that a member cannot speak to the substantive motion when giving arguments why their motion should be debated. As soon as the honourable member for North Shore started speaking she referred to what anyone would regard as a substantive motion. I ask you to call her to order.

**Mrs SKINNER:** To the point of order: I like the honourable member for Canterbury but I am embarrassed on his behalf.

**Mr SPEAKER:** That will not influence the decision of the Chair.

**Mrs SKINNER:** I point out that all I have done is read the motion. I have not yet addressed why my motion is urgent. The honourable member for Canterbury should listen carefully and follow the orders of the House. He should not make a fool of himself again.

**Mr SPEAKER:** Order! The honourable member for North Shore is not required to read the motion in this debate. If the House decides that the motion of which she has given notice should receive priority, she will be required to move the motion.

**Mrs SKINNER:** My motion is urgent because on Wednesday 28 May Jason rang a radio station and said that he spent six hours in Mona Vale Hospital on a trolley. He had a gash in his side and was bleeding on the sheets. If that is not urgent, I do not know what is.

**Mr Gibson:** Point of order: I am reluctant to rise on a point of order because the honourable member for North Shore is a very nice person. It is the same compliment that she paid to the honourable member for Canterbury. However, being nice does not give the honourable member for North Shore special privileges in this Chamber. The standing orders clearly state that the honourable member must give reasons why her motion should be given priority over that of the honourable member for Kiama. She cannot refer to the substance of the motion in any form. In support of my point of order, the honourable member has already referred to one case of a person waiting in an emergency department. I feel sorry for the person she is talking about, but this is not the time to mention him. The honourable member cannot go outside the standing orders, which were put in place by the Coalition Government.

**Mr SPEAKER:** Order! There is no point of order.

**Mrs SKINNER:** One evening last week I spent three hours in the Nepean Hospital emergency department. For 1½ hours the Leader of the Opposition was with me. Why did we go there? We went there because we wanted to see for ourselves the urgency of the situation confronting patients in emergency departments. If honourable members do not understand that it is a crisis when patients are lying unconscious on trolleys in emergency departments, they are making a mockery of parliamentary procedures and rules. They are trying to refuse me the opportunity to debate my motion.

**Mr McManus:** Point of order: Like my two colleagues, my point of order is clear and succinct. The honourable member for Kiama was clearly within the guidelines for urgent motions and he put forward reasons why his motion should be given priority. The honourable member for North Shore must put forward reasons

why her motion should be given priority over that of the honourable member for Kiama. Honourable members who have spoken so far are very nice people, but the fact is that rules are rules.

**Mr SPEAKER:** Order! The honourable member for North Shore is about to explain why her motion should receive priority over the motion of the honourable member for Kiama.

**Mrs SKINNER:** Members opposite are raising spurious points of order to prevent me from giving reasons that my motion, which relates to patients in emergency department, should be given priority and debated urgently. The daughter of one gentleman I spoke to at the hospital the other day was lying unconscious on a trolley, taking morphine and extremely strong antibiotics. She needed to have her appendix removed but a bed could not be found for her. She was admitted to hospital and treated 24 hours later. [*Time expired.*]

**Question—That the motion for urgent consideration of the honourable member for Kiama be proceeded with—put.**

**The House divided.**

**Ayes, 49**

Ms Allan	Ms Harrison	Mr Orkopoulos
Mr Amery	Mr Hickey	Mr E. T. Page
Ms Andrews	Mr Hunter	Mrs Perry
Mr Ashton	Mr Iemma	Dr Refshauge
Ms Beamer	Mrs Lo Po'	Mr Scully
Mr Black	Mr Lynch	Mr Stewart
Mr Brown	Mr Markham	Mr Torbay
Miss Burton	Mr Martin	Mr Tripodi
Mr Campbell	Mr McBride	Mr West
Mr Collier	Mr McGrane	Mr Whelan
Mr Crittenden	Mr McManus	Mr Woods
Mr Debus	Ms Megarrity	Mr Yeadon
Mr Face	Mr Mills	
Mr Gaudry	Mr Moss	
Mr Gibson	Mr Newell	<i>Tellers</i>
Mr Greene	Ms Nori	Mr Anderson
Mrs Grusovin	Mr Oakeshott	Mr Thompson

**Noes, 30**

Mr Armstrong	Mr Humpherson	Mr Slack-Smith
Mr Barr	Dr Kernohan	Mr Stoner
Mrs Chikarovski	Mr Kerr	Mr Tink
Mr Collins	Mr Maguire	Mr J. H. Turner
Mr Cull	Ms Moore	Mr R. W. Turner
Mr Debnam	Mr O'Farrell	Mr Webb
Mr George	Mr D. L. Page	
Mr Glachan	Mr Piccoli	
Mr Hazzard	Mr Richardson	<i>Tellers</i>
Ms Hodgkinson	Ms Seaton	Mr Fraser
Mrs Hopwood	Mrs Skinner	Mr R. H. L. Smith

**Pairs**

Ms Meagher	Mr Brogden
Mr Price	Mr Merton
Ms Saliba	Mr Rozzoli
Mr W. D. Smith	Mr Souris

**Question resolved in the affirmative.**

**BUSINESS OF THE HOUSE****Urgent Motion: Suspension of Standing and Sessional Orders**

**Ms NORI** (Port Jackson—Minister for Small Business, and Minister for Tourism) [4.13 p.m.]: I move:

That standing and sessional orders be suspended to allow four additional speakers to the motion for urgent consideration.

**Mr TINK** (Epping) [4.13 p.m.]: This is ridiculous! We lost private members' day tomorrow because the Government told the House that it has a couple of bills that are so urgent that it has to start them today and continue with them tomorrow. However, one of the most junior Ministers has moved suspension of standing and sessional orders so that an additional four speakers can contribute to minor business.

**Mr Whelan**: Point of order: The House should be aware that additional speakers were requested by the Independent members of Parliament.

**Mr SPEAKER**: Order! There is no point of order.

**Mr TINK**: As I was saying, the Government suspended the whole of private members' day, yet it wants to extend this debate. The Leader of the House suspended private members' day tomorrow because, in his opinion, a couple of bills are urgent. Yet he will not allow the House to sit at other times. This is an absolute disgrace! A whole private members' day has been burnt off—and it will not be the last—because this Government and the Leader of the House cannot get their act together and run a decent program that gives everyone a fair go, that gives every constituency a fair go, that gives private members' legislation a fair go. The Government has taken away a whole day and now it wishes to give us an extra couple of speakers on a minor matter. The Leader of the House burnt off a whole day.

The honourable member for North Shore raised an important matter, but the tintookies opposite took points of order to waste time. They waste time whenever a point is to be made. The Government is increasingly showing signs of being the rabble in the Parliament that it is with respect to the administration of the public service of this State and that it is in the opinion of the ordinary men and women of this State. This House ought to be allowed to conduct its business and private members ought to get a fair go. Those of us who are not members of the Government ought to get a proportionate time in which we can raise matters. Not only has a private members' day been cancelled, but—

**Mr Brown**: Point of order: I refer to the standing orders relating to tedious repetition. The honourable member for Epping has made the same point several times. If he is so concerned about wasting the time of the House he should sit down. We could then vote on the motion.

**Mr SPEAKER**: Order! The point of order is upheld.

**Mr TINK**: There you have it. What more needs to be said with respect to where the Government stands on the running of this House?

**Mr Whelan**: Sit down! You are out of order!

**Mr TINK**: I am not out of order. I am trying to defend the members of this House who want time to raise private members' business.

**Mr Whelan**: You should have argued it earlier.

**Mr TINK**: We were railroaded earlier; we are being railroaded now. The honourable member for North Shore was railroaded in relation to the points she wanted to make. The honourable member for Kiama has the hide to take a point of order against me when he had already taken numerous points of order against the honourable member for North Shore. She was not able to raise the point she wanted to raise. This is a dead-set joke!

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

**The House divided.**

**Ayes, 49**

Ms Allan	Mr Greene	Mr Newell
Mr Amery	Mrs Grusovin	Ms Nori
Ms Andrews	Ms Harrison	Mr Oakeshott
Mr Aquilina	Mr Hickey	Mr Orkopoulos
Mr Ashton	Mr Hunter	Mr E. T. Page
Mr Barr	Mr Iemma	Mrs Perry
Ms Beamer	Mrs Lo Po'	Dr Refshauge
Mr Black	Mr Lynch	Mr Scully
Mr Brown	Mr Markham	Mr Stewart
Miss Burton	Mr Martin	Mr Torbay
Mr Campbell	Mr McBride	Mr Tripodi
Mr Collier	Mr McGrane	Mr West
Mr Crittenden	Mr McManus	Mr Woods
Mr Debus	Ms Megarrity	Mr Yeadon
Mr Face	Mr Mills	<i>Tellers,</i>
Mr Gaudry	Ms Moore	Mr Anderson
Mr Gibson	Mr Moss	Mr Thompson

**Noes, 29**

Mrs Chikarovski	Mr Humpherson	Mrs Skinner
Mr Collins	Dr Kernohan	Mr Slack-Smith
Mr Cull	Mr Kerr	Mr Stoner
Mr Debnam	Mr Maguire	Mr Tink
Mr George	Mr Merton	Mr J. H. Turner
Mr Glachan	Mr O'Farrell	Mr R. W. Turner
Mr Hartcher	Mr D. L. Page	Mr Webb
Mr Hazzard	Mr Piccoli	<i>Tellers,</i>
Ms Hodgkinson	Mr Richardson	Mr Fraser
Mrs Hopwood	Ms Seaton	Mr R. H. L. Smith

**Pairs**

Ms Meagher	Mr Armstrong
Mr Price	Mr Brogden
Ms Saliba	Mr Rozzoli
Mr W. D. Smith	Mr Souris

**Question resolved in the affirmative.**

**Motion agreed to.**

**FEDERAL TRANSPORT AND ROAD FUNDING****Urgent Motion**

**Mr BROWN** (Kiama) [4.30 p.m.]: I move:

That this House calls on the Federal Government to immediately restore the \$100 million cut in last month's budget to the Roads to Recovery program and the \$865 million cumulative cut to the national highway system in New South Wales.

Roads to Recovery? What a joke! It is more like roads to ruin. The national highway system? What a joke! It is more like the national goat track system. Yesterday the Minister for Transport, and Minister for Roads advised the House of the significant damage caused recently by the Federal Government to local government and the national highway system throughout Australia. Two weeks ago the Federal Government announced in its budget that the Roads to Recovery program would be cut Australiawide by \$100 million. That will have far-reaching impacts on councils throughout the nation, especially in regional and rural areas. Councils in my electorate—the Wingecarribee Shire Council, the Shoalhaven City Council, the Council of the Municipality of Kiama and the Shellharbour City Council—now have considerably greater distances of roads to build and maintain than in previous years, but with a significantly smaller rates base than they had previously.

The New South Wales Government welcomed the announcement of the Roads to Recovery program's funding for local councils, and local councils appreciated having additional funding which enabled them to identify urgent needs, plan projects and enter into contracts. However, two weeks ago the Federal Government broke faith with local councils and should hang its head in shame. In this morning's edition of the *Kiama Independent*, the general manager of the Kiama council, Mr Michael Forsyth, expressed his disappointment that funding for roads in this year's council budget would suffer a \$60,000 shortfall and that the council would be further in debt by funding the \$58,000 difference. The *Kiama Independent* is a terrific journal of record.

**Madam ACTING-SPEAKER (Ms Beamer):** Order! The honourable member for Murrumbidgee will cease interjecting.

**Mr BROWN:** I am very supportive of the *Kiama Independent* because it reported very well on page 5 the difficulties facing the council.

**Mr Piccoli:** It will not be long before there is a Kiama Independent.

**Mr BROWN:** That really is a joke! The difficulties facing local councils is a story that is being repeated throughout Australia, thanks to the Federal Treasurer, Peter Costello, and the Federal Transport Minister and Regional Services, John Anderson. Of concern to my constituents is the state of funding from the National Highways and Roads of National Importance program. Prior to the 1996 election, members of the Federal Coalition promised the earth—they promised that Federal roads funding would continue, they promised that they would remain committed to the national highway system, and they promised that they would introduce additional funding to create roads of national importance, but the Federal Government's record tells a different story.

**Madam ACTING-SPEAKER:** Order! If the honourable member for The Entrance wishes to carry on a conversation, he should leave the Chamber.

**Mr BROWN:** The national highways funding throughout Australia was cut from \$834 million in 1996 to \$698 million in this year's Federal budget. In New South Wales alone, the cumulative cuts to national highway funding have amounted to \$865 million since 1996. What a disgraceful effort. It is shameful! The blatantly political roads of national importance—or roads of National Party importance, as they should be known—have been funded almost exclusively from the national highway program. Madam Acting-Speaker, let me give you an example of what a joke the National Highways and Roads of National Importance program is.

**Mr Piccoli:** They love it in my shires.

**Mr BROWN:** The honourable member for Murrumbidgee's statement confirms exactly what I said a minute ago: The program is not for roads of national importance but for roads of National Party importance. Although \$600 million was committed to upgrading the Pacific Highway, do honourable members know how much was allocated for upgrading the Princes Highway? Perhaps half as much? The amount was much less than that: \$34 million.

**Mr J. H. Turner:** Why don't you make some representations?

**Mr BROWN:** I travelled to Canberra with the Federal member for Gilmore, Joanna Gash, to make bipartisan representations on behalf of my electorate to the Federal Minister for Transport and Regional Services, John Anderson, but we still got shafted. Time and again the Liberal Party has let down the South Coast. Residents of the South Coast are not second-class citizens, and they deserve a fair deal.

**Madam ACTING-SPEAKER:** Order! Members of the Opposition will cease interjecting. That warning includes the honourable member for Myall Lakes and the honourable member for Murrumbidgee.

**Mr BROWN:** I encourage the honourable member for Myall Lakes to continue to send press releases to media agencies in my electorate, especially after the last one he provided, which was run by zero papers and radio stations in my electorate.

**Mr Torbay:** How many?

**Mr BROWN:** Zero. Most significantly, maintenance funding for national highways in New South Wales has decreased from \$144 million in 1996 to \$103 million in the most recent Federal budget, representing

a total cut of more than \$192 million since 1996. A well-maintained national highway system is vital to the very people whom the National Party claims to represent. It is the lifeline of Australians who live in country areas and provides major routes to markets for farmers throughout rural New South Wales. When I visit country areas of New South Wales as an active Country Labor member, that is what farmers tell me. As the Minister for Transport, and Minister for Roads stated yesterday, at current funding levels the Federal Government is assuming a 65-year life for road pavements on national highways, and that is twice their expected life span.

If national highways are maintained at that rate, the Hume, the New England, the Sturt and the Newell highways will all be impassable goat tracks because of the tens of thousands of trucks that will be trundling along them for the next 65 years. Of great concern for constituents in my region is that the Federal Government provided no funding for Princes Highway projects in the recent budget but instead cut funding for the north Kiama bypass and pushed back that project by more than a year. Moreover, there was no funding announced for a replacement for the Pambula bridge. Madam Acting-Speaker, have you ever heard of a road of national importance being only seven kilometres in length? The north Kiama bypass was declared a road of national importance, but it is not a road—it is a part of the Princes Highway. The Federal Government ought to declare the entire length of the Princes Highway a road of national importance or stop wasting people's time and intelligence in its attempts to arrange photo opportunities for its Liberal mate, the Federal member for Gilmore.

The north Kiama bypass is a vital project—one that the Federal Government promised to classify as a road of national importance. The Federal Government is running away from the classification to such a degree that construction could take a year longer than originally proposed. The Federal Government has misled my community on the bypass and Joanna Gash should be ashamed of its deception. I do not blame her; I blame her Government. The money that the Federal Government has already cut from the national highway program to supposedly use for roads of national importance would have paid almost twice over for a dual carriageway on the Princes Highway from Wollongong to Jervis Bay. I have asked the Minister for Transport, and Minister for Roads to ensure that funds will be allocated in next week's State budget for commencement of works on the north Kiama bypass, irrespective of the Federal Government's attitude.

It is only Labor to which my constituents can turn to deliver vital roadworks, but it was the document released last week by the Federal transport Minister that caused most despair for my constituents. In an effort to distract attention from the budget, the Federal transport Minister, John Anderson, last week announced that he would create a national land transport plan which has been dubbed Auslink—retitled Ausdud by the New South Wales Minister for Transport, and Minister for Roads. I, for one, do not dispute the need for a national, holistic, long-term strategy for our nation's road, rail and ports. However, I dispute the way that the Federal Government has indicated it will fund its plan. John Anderson stated at the launch of the program that Auslink is founded on the same approach that was adopted in compiling the recent Federal budget. Honourable members should remember that that is the very same approach that recently cut \$100 million from local councils and \$865 million from the national highway system.

Today I led a deputation of Wingecarribee councillors to see the Minister for Local Government. They are so concerned about the cut to roads funding that they are considering increasing their rates. John Anderson also claimed that the Federal Government will amalgamate land transport funding programs. It will not increase or reduce expenditure; it will just spread it even more thinly. At a time when national highways are already under stress, John Anderson wants to walk away from his responsibility for funding them. The Auslink plan suggests that the Federal Government will move to a transparent and independent assessment of projects. I imagine that it will be just like the transparent assessment that will see \$1.3 billion spent on the Alice Springs to Darwin railway line while reneging on the North Kiama bypass.

There is more to the Auslink plan. John Anderson wants to introduce a bidding program for transport projects when he already has one. Each year the States put in bids for priority works on the national highway system. Time and again what we ask for we do not get. We get only \$100 million for maintenance when we ask for \$140 million. We get only \$29 million for urgent safety works when we ask for \$39 million. We get only \$4 million for the F3 to Branxton link when we ask for \$9 million. The list goes on. The Federal Government's idea of a bidding system is really about putting urgent projects into the never-never. Ausdud, as it should more appropriately be called, will cut the shrinking pie even further and divert money into international projects, and necessary projects will miss out. Motorists should not have to endure cruel and unnecessary treatment on the Princes Highway. The Federal Government should honour its promises to my community to fund roads, support business and prevent further loss of life.

**Mr J. H. TURNER** (Myall Lakes—Deputy Leader of the National Party) [4.40 p.m.]: I am pleased that the honourable member for Kiama is a solicitor and not an accountant. As it is, I am a little worried about

his trust account. Under the Federal roads allocation for 2000-03 national highway funding increased by \$34.83 million—a 15 per cent increase. The honourable member for Kiama has attempted to force the ineptitudes of this Government over the past six or seven years onto the Federal Government. It is time that this Government understood and stood up to its responsibilities. It is time that Government members asked the Minister for Transport, and Minister for Roads why he will not fund the Princes Highway as per the requirements of the Constitution of New South Wales instead of constantly bleating that it is a Federal problem.

The honourable member for Kiama referred earlier to funding for local roads, but he has his figures wrong. Under the present Federal Government local roads funding has increased from \$122.5 million to \$128.06 million, an increase of 4.54 per cent or \$5.56 million. The honourable member also said that overall roads funding has decreased. The funding allocated in this year's budget by the Federal Government for New South Wales roads increased from \$561.1 million in 2001-02 to \$579.14 million for the following year—an increase of \$18 million.

**Mr Brown:** No-one believes you.

**Mr J. H. TURNER:** Those figures are to be found in the budget papers, you dill. I invite the honourable member for Kiama to look at the budget papers. I concede it is a somewhat generous observation, but I suggest that even he would be able to read the budget papers. The funding allocation for national highways increased from \$231.5 million to \$266.33 million—an increase of \$34.83 million. The amount provided in this year's Federal budget for local roads has increased. I refer briefly to Auslink, an issue to which the honourable member for Kiama referred earlier.

**Madam ACTING-SPEAKER:** Order! The honourable member for Kiama will cease interjecting.

**Mr J. H. TURNER:** The honourable member for Kiama, who does not know what he is talking about, made some sort of accusation about the Federal Government and the Federal Minister in relation to the Auslink proposal. I have in my possession a press release issued by Martin Ferguson, bemoaning the fact—to use Mr Ferguson's words—that Mr Anderson stole this program from the Labor Party. He later congratulated the Coalition on implementing Labor Party initiatives. Government members should get their act together. They either belong to one party or they do not. They are all over the shop. The Federal shadow Minister congratulated John Anderson on implementing this proposal, but the junior member opposite cannot read the numbers let alone understand what is Federal Labor Party policy.

Let us look at the misleading comments made earlier about a \$100 million cut in the Roads to Recovery Program. There has been no \$100 million cut in that program; that funding is still available. The full amount of \$1.2 billion allocated for the program is still there. This motion is another deliberate attempt by members of the Labor Party to mislead this House in relation to the Roads to Recovery Program. Local government will receive every dollar of funding that has been promised in this revolutionary and most welcomed program.

**Mr Brown:** The roads to ruin program.

**Mr J. H. TURNER:** The statement of the honourable member will be referred to the councils in his electorate. Is he suggesting that councils in his electorate do not want this funding? He does not want funding from the Roads to Recovery Program in his electorate. I will take that issue up with councils in his electorate. Councils in my electorate will be happy to receive funding from that program—the largest funding injection for local roads by any Federal government. When the Labor Party was in office it did not provide funding for local roads. All Opposition members recognise that the Roads to Recovery Program is vital. I have talked to councils in my electorate. If the honourable member for Kiama condemns this program in any way he will not get support from councils in his electorate and he will certainly be kicked in the teeth by councils in my electorate.

**Mr Brown:** They want the money.

**Mr J. H. TURNER:** The money is available and every penny will be paid. If the honourable member were intelligent enough to read the budget papers he would see that funding for the Roads to Recovery Program has been reduced, with the difference being reinstated in 2004-05. So funding for that year will remain unchanged at \$300 million. Every penny of that funding will be paid. When the Federal Labor Party was in office it did not put any money into funding local roads. The money that has been allocated by the Federal Coalition Government will prop up the projects implemented by this State Government.

The Minister for Transport, and Minister for Roads is totally incompetent in relation to funding road projects. What has been said about the Federal Government's budget allocation? In a press release issued by the



NRMA on 15 May Mr Alex Sanchez is reported to have said that the NRMA "welcomed the Government's decision to increase funding for New South Wales roads in 2002-03 to \$579.1 million, up \$18 million from 2001-02". I said earlier that this funding is reflected in the budget papers, but the honourable member for Kiama, who says that he has read the budget papers, claims that it is not.

Listening to the honourable member for Kiama one might be led to believe that Mr Sanchez cannot read the budget papers. I and Mr Sanchez have been able to extract these figures from the budget papers, but the honourable member for Kiama says that they do not exist. The honourable member can say what he likes about me, but is he stating that Mr Sanchez is also misleading the public? The honourable member for Kiama said earlier that those figures were not in the budget papers. They are, and that fact is verified by the NRMA. Mr Sanchez went on further to state:

The NRMA was pleased that the Government had kept its promise to provide \$45 million for black spot funding in 2002-03 following strong lobbying by the NRMA.

With regard to black spot funding, let us compare the record of the Federal Government with that of the State Government. Under this Government black spot funding has dramatically reduced, but the funding that is being allocated by the Federal Government is saving lives. During the three years that this program has been in place it is estimated that black spot funding has reduced the number of serious crashes by 1,500. Over the next four years the Federal Government will be spending \$180 million nationally on the black spot program—a positive announcement by the Federal Government.

What is the record of the State Government in relation to black spot funding? The State Government cut black spot funding in its last budget, and I bet my bottom dollar that it will cut black spot funding in this year's budget. The Minister for Transport, and Minister for Roads does not know anything about country roads. The Minister said to the Shires Association, "When it comes to road funding I am proudly Western Sydney-centric." There is no money in the electorate of the honourable member for Kiama because the Minister is proudly Western Sydney-centric. There has been a \$250 million blow-out in expenditure on the M5—money that could have been put to good use on the Princes Highway. Government members should ask the Minister for Transport, and Minister for Roads why there was a major blowout in expenditure on the Pacific Highway.

The Minister went to the Treasurer to ask for additional funding. He was told that he could not have it because he was incompetent and he could not manage any programs. He was told to go somewhere else to find the funding, so he slugged learner drivers and the road safety people in this State. This incompetent Minister has blown out his budget, yet the honourable member for Kiama has the audacity to come into this Chamber and state that the Federal Government should bail him out. The honourable member for Kiama should look the Minister in the eye and ask him for the money that he wasted on the M5, the Pacific Highway and all the other roads in New South Wales. Until he does that he will have no credibility in this debate.

This motion is a complete joke. It abrogates the responsibility of this Government and, in particular, the Minister for Transport, and Minister for Roads, the Hon. Carl Scully—the Minister we never see. He is like that new virus that has been found called the Scully virus. It does not do anything; it just keeps announcing that it will do something. It is about time members like the honourable member for Kiama had the intestinal fortitude to front the Minister and say, "I am not satisfied with the way you are running roads. I am not getting the money for my roads." Instead, they blame the Federal Minister, John Anderson. Minister Scully is responsible for the State's roads, but members opposite do not have the representative fabric within them to be able to get the necessary funding for roads in their electorates. Members opposite lack credibility. They must face up to their obligations as elected members of Parliament by urging the Minister to provide funding for the roads in their electorates.

**Mr HICKEY** (Cessnock) [4.50 p.m.]: This issue is a major concern of mine. Yesterday I asked the Minister for Roads a question, and I must confess that what he revealed disturbed me.

*[Interruption]*

It surprises me that the shadow Minister for Transport supports delaying funding for the Roads to Recovery Program.

**Mr George:** Point of order: He is not the shadow Minister for Transport; he is the shadow Minister for Roads.

**Mr HICKEY:** Members opposite tell us about how well they read account books—something like the Jodee Riches and Brad Keelings of the world, I suppose. But they are not accountants, as was obvious from what the shadow Minister said. Highway road maintenance funding has decreased by \$100 million. The Minister spoke about Auslink. He has nicknamed it Ausdud, because the Federal Minister for Transport clearly does not want to assist with that funding. He has arranged for funding for road maintenance to be available every 65 years—a 65-year cycle. But roads last only 30 years, or 35 years at the most. The State's roads are falling apart, and no funding is being made available to maintain them.

I am particularly concerned about funding for the F3 link road in the electorate of Cessnock. On many occasions in this House I have spoken about the Kurri Kurri corridor, or the outer Maitland bypass—call it what you will. It is a \$335 million project that will connect the F3 at Seahampton with the new section of the New England Highway at Branxton. The \$865 million slashed from the national highway system since the election of the Howard Government would have paid for this vital link almost three times over. It reflects badly on the Federal Coalition Government and what it thinks of major road infrastructure in our country. It is the major link that is missing between the F3 and the Branxton to Seahampton link road. Indeed, such a link road would greatly benefit the seat of Gwydir, which is held by the Federal Minister for Transport, John Anderson.

To date the Federal Government has provided only small amounts of planning funding. The Federal Government is drip feeding the project; it is not providing any additional funding. The Federal Government will not commit to providing funding to commence the project. We asked for \$9.2 million to finalise planning, which would have allowed construction to commence next year. The Federal Government provided \$4 million for planning, less than half the amount required. Yet, members opposite try to make out that the State is doing well. The Federal Coalition Government will not fund a project that everyone should support, particularly the Federal Minister for Transport, John Anderson, whose electorate would benefit greatly from it. The Federal Government's lack of funding has pushed the commencement date for the project beyond 2006 at the earliest. That is simply too long for my constituents to wait.

My colleague the honourable member for Kiama outlined the contents of the Federal Government's proposal for a national land transport plan. I understand that the plan is supported by Labor Ministers and the Federal shadow Minister. But the specifics of John Anderson's proposal worry me. John Anderson said specifically that only firm Commonwealth commitments on the national highway system would be funded. He also flagged the idea of user-pays private sector-funded road projects on the national highway system. Because no contract has been signed in relation to the F3 to Branxton link road, the Federal Government has flagged that it might walk away from funding it. [*Time expired.*]

**Mr MAGUIRE** (Wagga Wagga) [4.55 p.m.]: Let me put this debate in perspective. The honourable member for Myall Lakes has clearly indicated that funding under the Roads to Recovery Program will be forthcoming from the Federal Government, although the timing parameters will perhaps be adjusted slightly. I wish to pick up on the point made by the honourable member for Kiama about his having to go cap in hand with his local councils to get funding for what I assume are State roads.

State and local roads are obviously the responsibility of the State Government and local councils. Members opposite need to get their own house in order before they start throwing stones and pointing sticks at other governments and entities. I will outline for them how they could fund some of the infrastructure in their electorates. In 2000-01 the Carr Government spent \$133 million on consultants. The Premier promised to cap that funding at \$50 million per annum. That is \$637 million over six years that could have been applied to roads. In 2000-01 the Government spent \$104 million on advertising. The Premier promised to cut that funding to \$35 million per annum. That is \$528 million over six years. There has been a \$274 million blow-out in funding for the M5 East, from \$520 million to \$794 million, which demonstrates the absolute mismanagement of the roads portfolio. That money could have been well spent on roads in rural New South Wales. Members opposite are trying to build a case—but are failing miserably—for the motion.

There has been an \$800 million blow-out in funding for the Parramatta to Chatswood rail link. Indeed, a blow-out in funding of \$865 million has been referred to. The honourable member for Myall Lakes indicated that the information provided by honourable members opposite is clearly incorrect. There has been a \$230 million blow-out in funding for the airport rail link, which is the State Government's responsibility. An amount of \$25,000 was spent on a report suggesting that graffiti should be covered up. Fare cheats cost \$50 million a year. It has been suggested in an article that CityRail needs to increase the number of ticket inspectors by 50 per cent, because fares totalling more than \$50 million a year are not being collected in the portfolio administered by the Minister for Transport.

[*Interruption*]

As the honourable member for Cessnock knows, the money goes into the Consolidated Fund and it could then be applied to roads. The honourable member for Myall Lakes suggested that members should go to the Minister, along with their various council representatives, and put a fair case for more funding for roads. The Local Government Association in its submission to the budget this year clearly indicated that it was thoroughly unhappy with the State Government and its attitude to roads funding. The association stated that funding provided by the Federal Government under the Roads to Recovery Program is welcome and is responsible for significant improvements in the electorates. But that funding has not been mirrored by the State Government, which is finding all sorts of ways to squib out of providing funding for roads and bridges. The Kapooka Bridge, which is on a State road, needs funding.

The Jingellic Road needs to be sealed. Two lives have been lost on that road this year. I have called for funding from the Minister for Roads on numerous occasions but, like the honourable member for Kiama, I have not been successful with that call, because the Minister is mismanaging his portfolio and funds are being wasted. In Monday's newspaper the Government tried to blame the Federal Government's reduced excise on fuel and the GST for not upgrading roads. It is clear that the Minister is incapable of managing his portfolio and applying funding where it is needed. Government members must strongly urge the Minister to provide funding for all State roads, which are clearly the responsibility of the Minister.

**Mr NEWELL** (Tweed) [5.00 p.m.]: I have great pleasure participating with other Government members in this vigorous debate to support the motion of my colleague the honourable member for Kiama. The motion is appropriate because in the lead-up to the Federal Budget I moved an urgency motion seeking a funding commitment for the Pacific Highway beyond 2006. I welcome the offer by the New South Wales Minister for Roads to commit to the ongoing upgrade of the Pacific Highway. Unfortunately my appeal for funding for the project to my Federal colleagues seems to have fallen on deaf ears. Apparently similar representations from the Federal Liberal member for Gilmore seem to have fallen on deaf ears also, so perhaps I should not take the rejection personally.

The Minister for Roads has confirmed that the Federal Government will sign up to an extension of the historic 1996 agreement, to which the Minister for Regional Development and I were parties. The New South Wales Government is very keen to keep the work going. As the motion moved by the honourable member for Kiama suggests, the Federal Government is not serious about the ongoing upgrade of the Pacific Highway or any other major national road in New South Wales. John Anderson, the Federal Minister, has failed to convince the city-centric Federal Liberal Treasurer to provide the necessary funding to pay for the maintenance backlog of the national highway system, for local road projects under construction by local councils or for the ongoing needs of the Pacific Highway.

Since 1996 cuts to funding for the Pacific Highway and for the Roads to Recovery Program have totalled almost \$1 billion, which represents enough Federal funding to maintain upgrading of the Pacific Highway for a further 10 years. With the funds that have been cut, in that time a dual carriageway could have been constructed from Hexham to the Queensland border, for which people have been so loudly clamouring.

I am delighted with the roadworks that have been undertaken in my electorate so far. On many occasions I have spoken about the \$348 million Yelgun to Chinderah freeway, which will bypass the Burringbar Range, a notoriously difficult stretch of road. It will shorten the distance between Yelgun and Chinderah from 43 kilometres to 28 kilometres. It is expected that that section of freeway will open on 4 August. It will be a great fun day. The whole community is getting behind it. A growing group of residents, with officers of the Roads and Traffic Authority, are working hard to ensure that the opening day will go down in the history books. Mr Stan Dawson is in charge of planning the many activities that will take place on the new section of road on the day, and the details of those activities will unfold as 4 August draws closer.

I encourage everyone in my electorate—local food producers, makers of arts and crafts, dancers and musicians, environmental groups, and sporting and tourism groups—to come together from all over the Tweed to have a good time and to show off the wares and talents that are unique to the Tweed. I am looking forward to the opening day celebrations on 4 August. I wish to speak more of the national highway system. Before the 1996 Federal election the Coalition's policy document included this promise about funding for the Pacific Highway:

\$100 million of the total \$750 million will be allocated from the National Highway allocation—but there will be no "front-end loading" of the National Highway component, so the increased funding of \$65 million per year will commence from the outset and commitments already made under National Highway funding will be met.

With that promise the Coalition said it would divert \$100 million from the national highway system into roads of national importance such as the Pacific Highway. In reality, however, the national highway system, which supports, for example, the New England Highway taking pressure off the Pacific Highway, has been pillaged to fund National Party pet projects around the nation. The motion of the honourable member for Kiama calls for the \$865 million that has been cut from that program to be reinstated immediately. I support that call. The funding is needed to keep open and well maintained a network of roads that supports the nation. I endorse the comments made by the Minister for Roads and my colleagues today. We need an ongoing commitment to a national highway. We need a commitment to the Pacific Highway beyond 2006, and we need a Federal transport Minister who has the ability to get that money from the Federal Treasurer. I support the motion.

**Mr PICCOLI** (Murrumbidgee) [5.05 p.m.]: Again I point out the hypocrisy of the New South Wales State Government. If this Labor Government can be called anything, it is the blame government. It refuses to take any blame for anything. It refuses to acknowledge any problem that arises in this State. Whether it is about roads, agriculture or forestry, this State Government refuses to accept or acknowledge any responsibility. The Federal Constitution may not be as clear as it should be, but it clearly sets out what are Commonwealth responsibilities and what are State responsibilities. If there are problems in health or education, this Government tries to sheet home the blame to the Federal Government. This afternoon the honourable member for Kiama blamed the Federal Government for all problems associated with road funding.

About four months ago the Federal Government provided the single largest allocation to road funding for local government—\$1.2 billion I believe was the amount. The Federal Government spent \$1.2 billion on something that was not its responsibility. Such funding is the responsibility of the State Government, but because the State Government was not accepting its responsibility for road funding, the Federal Government, after listening to the concerns of local government—of which the honourable member for Dubbo and the honourable member for Northern Tablelands are former members—realised that the roads were inadequately funded and took action. Indeed, local government is blaming both Federal and State governments for the lack of funding, and that may well be the case. But the Federal Government responded by putting in something like \$1.2 billion. It provided funds for something that is ultimately a State Government responsibility. The Federal Government took the pressure off the State Minister for Roads but it received no thanks from him or from the Government for that.

An allocation of \$100 million has been delayed but an amount of \$1.2 billion of Commonwealth money is going into local roads. The people of my community, the men, women and children who have to travel on those roads, have been made to feel safer by this injection of Federal money. I thank the Federal Government for what it has done, but no thanks can go to the State Government. I thought the honourable member for Kiama would take the opportunity to acknowledge his own responsibilities and those of the State Government for funding local government and roads. I have never been in local government but I have the utmost respect for its members because they work closely with the community to raise funds to improve roads and provide the facilities and services that their communities demand. The State Government must fulfil its responsibility and fund councils appropriately. It is highly hypocritical of State Government members to criticise the Federal Government, especially for lack of funding for roads that are the responsibility of the State Government.

**Mr Brown:** Point of order: I ask you to direct the honourable member for Murrumbidgee to speak to the motion. My motion clearly refers to the Federal Government restoring funding. If the honourable member does not support the restoring of funding he should argue that the Federal Government should not restore funding. If he supports my motion he might want to say, "I support the motion."

**Madam ACTING-SPEAKER (Ms Beamer):** Order! The remarks of the honourable member for Murrumbidgee were relevant to the motion.

**Mr PICCOLI:** I am more interested in prompting the honourable member for Kiama to pressure his Government to do something as constructive as what the Federal Government has been doing. The Princes Highway on the South Coast is a State Government responsibility because it is a State road. The honourable member should get his Minister to fix a State road because that is his responsibility. I will give the honourable member a copy of the Commonwealth Constitution to remind him of the difference between Commonwealth responsibilities and State responsibilities.

**Mr TORBAY** (Northern Tablelands) [5.10 p.m.]: I am delighted to support the motion, and I congratulate the honourable member for Kiama on moving it. This debate has been lively. It is one example of governments and oppositions being given the opportunity to spar on past performances. The motion is simple. It

is not about whether the State's past record on roads or the Federal Government's past record on roads has been satisfactory. In my view, those matters are separate from the motion, which simply relates to the response by the Federal Government, prior to the election, of the concerns of local government. The honourable member for Murrumbidgee was right when he made that point.

Not only was the Federal Government's announcement about its commitment to the Roads to Recovery program well received by local government, but during the Federal election campaign many Federal Coalition members campaigned heavily on that announcement and commitment. Subsequent to the election the Federal Government announced that it will shift the goalposts in relation to Roads to Recovery funding. Regardless of the comments made in this debate, it is fair to say that all honourable members who represent country electorates support the motion, although they may not be able to say that because they must toe the party line. However, honourable members who say they support the reduction of funding over the same period for country roads will not be able to look at their communities with straight faces.

The key aspect of the motion is the call for the Federal Government to restore the funding, consistent with the commitment it made. That is all. Honourable members either support what the Federal Government said before the election in relation to country roads or they do not. Arguing about the State Government's performance is not relevant to the subject of the motion. However, we can allude to the Government's performance because the Minister for Roads has been criticised in this debate. I call it as I see it. The great value of being an Independent is that I can tell it like it is, rather than make comments such as those I have heard from the Opposition benches today. Opposition members claim that it is good news that the Federal Government will pay the money over a longer period. That is utterly ridiculous.

I place on record my thanks to the New South Wales Minister for Roads. I will highlight some regional roads in my area that required urgent attention. The Minister announced funding of \$3 million to assist Guyra Shire Council to seal the unsealed section of the Guyra to Ebor road. He also announced funding of \$3 million to assist Uralla Shire Council to seal the Uralla to Bundarra road. Recently, in Inverell shire—it is a hard-working community with a hard-working council—the Minister announced \$2 million on a dollar-for-dollar basis, a total of \$4 million, for the Inverell to Yetman road. I acknowledge that the council appreciated that funding. The Minister announced the allocation of \$500,000 to Tenterfield shire, to be matched by Tenterfield shire council over a period, with a further \$500,000 for Mount Lindsey Road in Tenterfield. The honourable member for Newcastle has links with Tenterfield, as he has said in the House previously.

Road funding is critical. This motion is about the Federal Government honouring its commitment. It has shifted the goalposts and it deserves to be challenged for that. Rural roads are important. I would like the State Government to do more. I acknowledge what the Minister has done in relation to previous funding arrangements. The Federal Government must continue to fund the Roads to Recovery program because local government, which has been starved of funding for roads for many years, requires that funding. We need to continue the process and keep the pressure on the Federal Government. Finally, I am disappointed that the Opposition sought to block debate on this motion and, in particular, to block the Independents from speaking about rural roads. *[Time expired.]*

*[Debate interrupted.]*

## **BUSINESS OF THE HOUSE**

### **Private Members' Statements: Suspension of Standing and Sessional Orders**

#### **Motion by Mr Whelan agreed to:**

That standing and sessional orders be suspended to postpone private members' statements until the conclusion of the motion for urgent consideration.

## **FEDERAL TRANSPORT AND ROADS FUNDING**

### **Urgent Motion**

*[Debate resumed.]*

**Mr OAKESHOTT** (Port Macquarie) [5.16 p.m.]: I am pleased to follow the honourable member for Northern Tablelands in this debate. The message behind the motion is simple: A promise was made, and we

urge the Federal Government to honour that promise. Money is desperately needed for regional and rural roads across the board. The biggest roads project on the mid North Coast is the Pacific Highway upgrade. That project has received joint funding from State and Federal bodies, and it has received bipartisan support at various levels of government at various times. Both the Labor Party and the Liberal Party have been supportive of funding the upgrading of the Pacific Highway. At Coopernook in my electorate, work is nearly completed on removing the Coopernook bridge, which is one of the most dangerous bridges on the North Coast.

Planning for road projects at Moorland and Kew is under way. Those significant works involve the construction of a bridge close to metropolitan areas. Those projects are creating safer, quicker roads, and are the best thing for business and community life on the mid North Coast. I am concerned that the Federal Government will shave \$100 million from the funding commitment it made prior to the Federal election. That could have significant planning implications for projects in the Port Macquarie electorate, such as upgrading the Pacific Highway at Kew and Moorland. Many local projects in the Hastings and Greater Taree City Council areas have benefited from Roads to Recovery funding. That funding must continue in its entirety. Projects worth \$7 million for bridge construction and upgrades in the Greater Taree City Council area desperately need funding. Greater Taree City Council has the second highest number of necessary bridge replacements behind Kyogle Council further up the North Coast. If those works are not carried out, communities will be cut off and lives will be placed at risk.

Those projects would benefit enormously from the full funding that was to flow from the Roads to Recovery program. Stingray Creek Bridge at North Haven has had load limits placed on it. Therefore the tourist trade in that area has had to change. Tourist buses cannot now go through Laurieton and North Haven to Port Macquarie but have to continue up the highway, so the entire communities of those areas now miss out on being serviced by tourist buses. That has significant implications for the school bus network because it has split communities and made it difficult for local residents. That project would have also benefited enormously from full funding from the Roads to Recovery program. We are also waiting for the Oxley Highway realignment upgrade and improvement works at Wingham Road. Both of those projects would have benefited from full funding from the Roads to Recovery program.

I am therefore surprised that the National Party has chosen to vote against this motion. I would have thought that all members would have \$10 million worth of local roads and bridge projects in their electorates, in other words, projects similar to those I have referred to in my own electorate. The Pacific Highway upgrade is screaming for further funding. That it is a significant issue as the highway plays an important role in the daily lives of residents in my area. It was extremely surprising and disappointing to hear members of the National Party vote against additional members being allowed to speak to this motion and then to hear that they intend to vote against the motion. I encourage the Federal Minister, John Anderson, to reinstate \$100 million to the Roads to Recovery program as it is desperately needed in electorates such as mine. I encourage my former colleagues in the Coalition to support the campaign to try to get that \$100 million reinstated.

**Mr McGRANE** (Dubbo) [5.21 p.m.]: I support the motion. The Roads to Recovery program is an excellent Federal Government program, but I was amazed to learn that in this year's budget \$98 million in funding for the program has been deferred to future years. As previous speakers have said, the fact that the \$98 million will not be spent in the current year will throw planning by councils, the Roads and Traffic Authority and everyone else involved in spending that money into chaos. Basically, plans made on a five-year cycle have come unstuck because the Federal Government has decided to defer the \$98 million. The Federal member for the area I represent, the Hon. John Cobb, has expressed his disappointment at the deferral. A bipartisan approach should be adopted in informing the Federal Government that we need more money for the upgrading of vital highways. We all know that development and tourism in regional areas is waning. The key to getting it back on track is good road infrastructure development. That will entice the tourism industry and development into regional areas.

The Newell Highway is the most important inland link between Brisbane, Melbourne and Adelaide. It is vital to exports from regional New South Wales, Victoria and Queensland, for trade between the States and for the transport of goods between Brisbane and Melbourne. In the past few years the Roads to Recovery program has been beneficial to council areas along the Newell Highway. Because of the increase in freight between the States, extra money has been spent on the road. Sixty per cent of the traffic on the Newell Highway comprises B-doubles. They need extra good roads, and from the safety angle alone the improvements that have been taking place on the Newell Highway need to continue.

I am disappointed by the deferral in the Federal budget of \$98 million in funding from one year to the next. It is a negative approach to regional Australia. One could say that it is the fault of the Federal Treasurer

because he brings down the budget, but the National Party both in this State and federally did not stand up to the Liberal Party in regard to road funding. A certain element in the Liberal Party does not think outside a small area that is centred on where the heaviest concentration of the Australian population lives. The population of Australia is centred along the east coast, from Adelaide to Cairns, as I have often said. Ninety-one per cent of the population lives within 40 kilometres of the coast, and that is where the bulk of the politicians, both State and Federal live. It is difficult for regional Australia to get its fair share of Federal tax money. The point I am making is that regional Australia is the engine room of our export industries. Our exports of mutton, grain, mineral and wool do not come from that coastal fringe but from inland regional Australia. It is vital that the Federal Government realises that and provides sufficient money for the upgrading of vital facilities such as roads. [*Time expired.*]

**Mr BROWN** (Kiama) [5.26 p.m.], in reply: I am pleased that this important subject has generated such interest. During the debate the honourable member for Wollongong, the Parliamentary Secretary for Aboriginal Affairs, made clear to me his keen interest in the need for road funding for the Princes Highway south of Wollongong. He is a strong campaigner on that issue and he is very popular in his electorate as a result of his dedication to the maintenance of roads and other infrastructure throughout the Illawarra and the South Coast. That is a different approach to that taken by the honourable member for Myall Lakes. Instead of trying to get extra funding for councils and the community the honourable member for Myall Lakes claimed there is no problem and that all the money for the Roads to Recovery program is still available. When he said that I interjected and said that no-one believed him. I asked, if the money is available, why councils claim they have to borrow money to complete their roads projects. One cannot give something with one hand and take it away with the other, especially when lives are at stake. As an analogy, the parents of a hungry child might tell that child that they have bought food but the child cannot have it until the following year.

The argument of the Federal Government that the money is available is ridiculous. Money is no good unless it can be spent. I completely reject the argument of the honourable member for Myall Lakes. At least the honourable member for Wagga Wagga showed some character when he conceded that the Federal Government had reneged on its promise. However, he claimed that the fuel excise is being spent on country roads. The simple fact is that the Federal Government collects \$12 billion a year in fuel excise, of which only \$2 billion is spent on country roads. That is not good enough. Spending on roads in regional and rural areas needs to be increased.

My colleague the honourable member for Cessnock, who has experience on the local council, talked about the need for the proper renewal of roads when they break down after 30 years of use. His commitment to his electorate should be applauded. He spoke about the need for money to be spent on the Kurri Kurri corridor. The honourable member for Tweed also spoke about the need to upgrade the New England Highway and the Pacific Highway. He also spoke about the many council roads that continually need repair in his area of the State, particularly because of high rainfall.

Unfortunately, the honourable member for Murrumbidgee added little to the debate. He admitted that funding was promised before the last Federal election, and a wry smile came to his face when I interjected that that was simply pork-barrelling. We know it was pork-barrelling because the Federal Government, once it gained the trust of the community and was re-elected, immediately withdrew the funding, denying local councils and the local community decent roads. I congratulate the honourable member for Northern Tablelands. What a dedicated Independent member he is. How right he was to point out to the House that the conservative parties in this place try to deny the voice of Independents. The Government does not. The Government wants to hear the contributions of Independents in this House so that it may look after their electorates, for which they work so hard.

In respect of the contribution of the honourable member for Port Macquarie, I say the same as I do for that of the honourable member for Dubbo. The honourable member for Port Macquarie spoke about local projects in Moorland and Kew and their benefits for the Hastings and greater Taree area. He mentioned tourism, which also was a theme in the speech of the honourable member for Dubbo, who is particularly keen to encourage employment, investment and tourism in Dubbo. He spoke of the need for a positive approach to regional roads, not the negative approach of the conservative Coalition. I am pleased that there was such rigorous debate on this issue. It will not go away until the Federal Government honours its promise to look after roads in regional and rural New South Wales. I urge every honourable member to support this motion to restore Federal funding to roads.

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

**The House divided.**

*[In division]*

**Mr Armstrong:** Point of order: The honourable member for Northern Tablelands called for a division and the bells have been rung. The division is in progress, and standing orders require that it continue.

**Mr Torbay:** I misunderstood the rules, and I seek leave to withdraw my call for a division.

**Mr ACTING-SPEAKER (Mr Mills):** Order! The honourable member for Northern Tablelands advises that he misunderstood the process for calling for a division and seeks the leave of the House to withdraw his call.

**Mr Fraser:** Leave is not granted.

**Mr ACTING-SPEAKER:** Order! I will hear further argument on the point of order.

**Mr Armstrong:** With due deference to your position, you put the question, accepted the call for a division, and ordered that the bells be rung. The process has started. I submit you are unable to overrule your earlier order. The standing orders are specific on this matter.

**Mr Whelan:** To the point of order: One must accept what the honourable member for Northern Tablelands has said, namely, that he misunderstood the procedure and was in error in calling for a division. Having admitted his error, he has requested that the division be called off. In other words, he no longer calls for a division on the vote on the question. The House may, having heard from the honourable member that he made a mistake, accede to his request. The easiest way in which to clarify the matter is for the Chair to call off the division and restate the question. Any member of the House may then call for a division.

**Mr ACTING-SPEAKER:** Order! I have received advice, but I will hear the submissions of the honourable member for Coffs Harbour on the point of order.

**Mr Fraser:** To the point of order: I was in the Chamber when the honourable member for Northern Tablelands called for a division. The honourable member thought he would embarrass the Coalition by calling for a division. Having caught himself, he now wishes to abuse the processes of the House to dig himself out of a hole because he did not realise that the standing orders require him, having called for the division, to vote against the motion. The honourable member understood the question put by the Chair and called for the division to try to embarrass the Coalition. Having embarrassed himself, he now seeks to use the processes of the House to try to weasel his way out of his dilemma.

**Mr ACTING-SPEAKER:** Order! In view of the honourable member for Northern Tablelands advising that he made a mistake, and having heard from members on the point of order, I shall call off the division and restate the question.

**Division called off.**

**Mr ACTING-SPEAKER:** Order! The question is, That the motion be agreed to.

**Motion agreed to.**

**Pursuant to resolution business interrupted.**

#### **PRIVATE MEMBERS' STATEMENTS**

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#### **BOWRAL HIGH SCHOOL**

**Ms SEATON** (Southern Highlands) [5.39 p.m.]: Bowral High School student representative council [SRC] is to be congratulated on raising an issue that is probably not the most fashionable but is very important—the state of the toilets and canteen at Bowral High School. SRC representatives have heard complaints that many students at the school are unhappy about the state of the toilets, that they feel unsafe, and that the toilet facilities leave a lot to be desired. I would like to thank Justin and Naomi, who invited me to join them at Bowral High School last week so that I could see for myself the concerns they raise on behalf of their fellow students and to see if we could work together to achieve some improvements.



The students took me first to the toilet facilities in the main block. The boys' cubicles were damaged and there was not even a sign to show that they were the boys' toilets. Some of the lights did not work and a number of features in the bathroom were not up to scratch and did not encourage students to look after the facilities. In the girls' toilets, which are located in the same building, there were damaged soap holders, toilet seats were missing or vandalised, and the toilet stalls were not very high and did not provide a lot of privacy. Most of the toilet blocks I saw had only a single toilet paper dispenser on the wall, which had to be accessed by students before they went into the toilet stall, which is not ideal and was something the girls were not happy about.

I was then shown the canteen area. The canteen is located in front of a large area with a covered sporting facility. On each side of the canteen is a major toilet facility with showers attached. The canteen ladies do a great job, operating in very confined spaces, which they find very difficult. In wet weather students eat their lunches near the canteen to escape the bad weather. The odour from the toilets is most unpleasant, and it also pervades the canteen. Drainage from the toilets enters the storage areas of the canteen, although it is not contaminated water. We considered some options to try to improve the situation. Students suggested blocking off the doors to the toilets to isolate them from the canteen and providing an alternative entrance to the toilets. More toilets are needed because the school, which was built to accommodate 600 students, now has 1,200 students. Ergonomic extractor fans were considered as an option, as well as ways to provide better lighting for the toilets. It was discovered that the light switch for the girls' toilets in the canteen area can only be operated from the administration block, which is a good four minutes walk from the toilet.

Most important, the students would like the canteen area to be converted into more toilet facilities and a new canteen built, which was the original plan. Not long ago a new covered outdoor learning area was built at Bowral High School. This was very welcome but was long overdue. Parents raised about \$60,000, which was matched eventually by \$60,000 from the Government. However, by the time that funding was announced the cost of the project had increased from \$120,000 to \$160,000. Parents chipped in another \$40,000 so they now have the covered outdoor learning area but no canteen. This is an opportunity for the Government to reward the efforts of both the students and the parents and citizens by making a commitment to building a new canteen, and use the existing canteen area to build additional toilet facilities.

There are probably three parts to this project. First, on a cultural level the SRC will take responsibility for a higher level of usability of the toilets. They will make them more pleasant and safer, places that people will want to take care of. Second, the school will examine what measures it can take to improve lighting in the individual toilets. Third, I call on the Government to provide the vital capital funding for the new canteen to match the effort of the parents.

#### **Mr AND Mrs CIFTCI AND SYDNEY WATER**

**Mr GIBSON** (Blacktown) [5.44 p.m.]: I wish to speak about Sydney Water and a situation in which a family in my area found themselves recently, perhaps because of a lack of knowledge or their limited English skills, or because they did not provide sufficient details to Sydney Water. Mr and Mrs Ciftci of Blacktown came to my office last November, concerned that their Sydney Water bills were so high. On 26 April their water bill was \$256.05, on 29 January 2001 it was \$253.30 and on 27 July 2001 it was \$256.00. Indeed, all their water bills were in that region. The Ciftcis are two elderly people who live on their own as all their family have grown up and moved away. They informed me that they have a little cabin located on the back of their property.

On their behalf I contacted the Minister for Information Technology, Minister for Energy, Minister for Forestry, and Minister for Western Sydney, who promptly responded to my inquiry. He informed me that the Ciftcis were being charged for dual occupancy because of the self-contained cabin at the back of their property. I asked the Minister to further inquire into the reason the bills were so high. He did so and ascertained that Mr and Mrs Ciftci were not recorded as pensioners. The Minister made representations on their behalf, and I am pleased to inform the House that just before Christmas last year Mr and Mrs Ciftci were reimbursed with a cheque in the sum of \$2,368, a large amount for this elderly couple. They are extremely grateful to the Minister for his intervention on their behalf.

I have spoken to several other constituents who have had similar problems with Sydney Water and other authorities and have ascertained that they, too, have not informed those agencies that they are pensioners. I have brought this matter to the attention of the House because had it did not been for the prompt action of the Minister and the department, the Ciftci family would still be paying high water bills, merely because of their limited English, their lack of knowledge or their failure to provide the authorities with proper details. They had exhausted every avenue in seeking to get to the bottom of the matter. Therefore, I urge other people who receive unusually high utility bills to question them.

### LACHLAN ELECTORATE POLICING

**Mr ARMSTRONG** (Lachlan) [5.49 p.m.]: I recently received a letter from the Returned and Services League of Australia, Grenfell sub-branch, a copy of which was also sent to the Federal member for Parkes, Mr John Cobb. To illustrate the points I wish to make, I will read the contents of the letter into *Hansard*:

Dear Sir,

I would like to bring to your notice the LAW and ORDER concerns felt by members of the Grenfell Sub Branch R.S.L. and our local community.

Over the past ten years Policing services in Grenfell have slowly been eroded with reduction of our local Police Station staffing from one Sergeant and three Constables to one Sergeant and two Constables and then in more recent years the Position of Sergeant was removed. The current strength being three constables, however due to the inability of the [Government] ... to fill a vacancy for a period of twelve months the total strength stands at two Constables.

For our Sub Branch the issue came to a head when a number of irreplaceable items of memorabilia were stolen from our Club Rooms and attempts to prevent these thefts proved futile. As a result we were forced to remove all items of memorabilia to our local museum until they can be placed on permanent display at a new Library complex. Sadly since that day we have been forced to sell our Club Rooms because the financial state of our Sub Branch is declining due to natural attrition of our elderly members.

Because the issue is of such importance to our members we made representations to our local member Ian Armstrong M.P. and also directly to the State Branch of the R.S.L. through the [then] President Mr Rusty Priest.

As a result of those representations to both Mr Armstrong and Mr Priest two replies were received from Bryce Gaudry M.P. that failed dismally to answer our questions.

A copy of the most recent reply via the N.S.W. State Branch R.S.L. is attached. Also attached is a copy of the original motion from this Sub Branch to the State Conference of the R.S.L. with questions as to local law and order issues.

We appreciate that this is a State Government issue, but one that is affecting many of your constituents.

That is a reference to Mr Cobb's constituents.

At the last meeting of the Grenfell Sub Branch it was proposed to bring this matter to your attention in the hope that the issues raised may be canvassed at a higher level.

It would be fair to say that the Policing, Law and Order issue is a major concern to communities throughout the State and the country.

Forwarded for your information and attention...

D. J. Forsyth  
Hon Secretary.

That letter is symptomatic of the complaints of many town and community organisations throughout my electorate. The matters have been the subject of media articles. On 9 May in this House I referred to an article in the *Lake News* relating to a weekend of violence in the Lake Cargelligo community and the difficulties experienced by police officers who were on duty at that time. Another article relates to problems that occurred at Temora when a person was arrested. Indeed, members of the family of the person involved and members of the public went to the police station to harangue and harass police officers while they were charging the offender, and the same thing happened at Lake Cargelligo. If that had happened in Sydney, it would have been front-page news and a member of Parliament would have drawn it to the attention of this House. However, in country areas this type of thing is increasingly occurring. It seems to be a new phenomenon and police seem to have lost the respect of the community.

How can police officers be expected to command respect when in Condobolin, despite an approved strength of seven police officers, there were only two police officers on duty for a period of nine days? When an arrest is made in Condobolin the police must take the offender to Parkes, which is one hour's drive away. The return trip takes two hours and the paperwork takes one hour, so for three hours at a time the town is without any police officers. In those circumstances the police officers avoid taking offenders to Parkes by simply not making arrests. During the Lake Cargelligo incident when arrests were made, the police officers were forced to release an offender in Condobolin whom they had been holding in the dock—the only appropriate place—because they were called upon to assist officers at Lake Cargelligo. They could not go ahead with the arrest. They had to simply open the door and let the offender go. That must have been the quickest trial in history!

The bottom line is that an extremely serious problem threatens community safety. When a well-reputed group such as a local RSL complains, all honourable members know that a stand is being taken on behalf of the

community. It is not just a case of somebody playing politics, because the RSL is not in the habit of making a nuisance of itself. Its members are sincere, concerned, responsible senior people who deserve respect by acknowledgement that their complaints are genuine. I ask the Government to take due notice of the concerns that have been raised and to acknowledge that there are problems with policing that have not been addressed in country New South Wales in general, and in Grenfell in particular.

**Mr MARKHAM** (Wollongong—Parliamentary Secretary) [5.54 p.m.]: I note what the honourable member for Lachlan has said and I acknowledge that some of the issues are serious. I do not know whether he has brought them to the attention of the Minister for Police or sent a copy of the letter to him, but I will draw this matter to the attention of the Minister tomorrow morning. I will also ensure that the *Hansard* record of the honourable member's comments are drawn to his attention. Hopefully the Minister will respond to the matters raised by the honourable member for Lachlan in a way that is satisfactory to the honourable member.

### CESSNOCK ELECTORATE HEALTH SERVICES

**Mr HICKEY** (Cessnock) [5.55 p.m.]: Today I wish to bring to the attention of the House the issue of the rural health task force and its delivery of outcomes to the Hunter Health Board at a meeting on the evening of Monday 20 May. The task force was attended by a vast array of constituents across the electorate of Cessnock. I particularly thank the Mayor of Cessnock, Mr John Clarence; the Secretary of the Construction, Forestry, Mining and Energy Union [CFMEU], Mr Robert Barker; the Chairman of the Hunter Health Board, Mr Graham Smith; Mr Mark Stoker from the Australian Workers Union [AWU] and Mrs Robyn Consulldine, along with the numerous persons responsible for organising the forum. Those persons all worked tirelessly in helping to find out what the community expects with regard to Hunter health services in the Cessnock local government area.

In the initial stages there was a great deal of community resistance in accepting that the services would be enhanced by this scheme, and even today there are people in the community who are saying that the Cessnock District Hospital and the Kurri Kurri District Hospital are earmarked for closure. I am told that this scenario will not happen and that services will increase in my electorate. This is the picture I am trying to paint to my community. The Minister was quoted in the *Daily Telegraph* as saying at the Tamworth conference for rural doctors that he "would guarantee the future of and strengthen district hospitals". During the recent parliamentary recess I had the experience of meeting with a wide range of community groups. The number one issue discussed was health services and related matters.

Some of the groups I had meetings with were the Singleton Retired Miners, Singleton Senior Citizens, Singleton Red Cross, Singleton Returned Services Club, Cessnock Retired Miners, Cessnock Rotary club, Cessnock Lions Club, Cessnock Probus club, Cessnock Retirement Village, which is the West Haven Masonic group, and the Cessnock Cancer Support Group. All of those groups have had the opportunity to either directly or indirectly voice their concerns in regard to health-related matters. Many of the groups' individual members actually participated in voicing their concerns at the task force meetings held throughout the electorate.

Along with the issues of health-related services, it has been made very clear by those groups that there is a need for a major injection of funding in capital works items. They need simple things, such as repair of the leaking roofs at the Kurri Kurri hospital and the Kurri Kurri community centre, hospital nurses stations at the Cessnock hospital, and, most importantly, a bus for transportation. If parliamentarians are to embrace the hub and spoke concept, and that is the track we are going down, we need to adopt a seamless whole-of-government approach towards transportation for communities that have no, or very limited, public transport systems. I raised this issue in a private member's statement on 13 March but I cannot see any reasonable outcome on this issue in the near future. This matter will have to be worked through with the Government over time.

The buses currently used for the community day care activities do not meet occupational health and safety standards and are being driven by community nurses who have to wrestle with difficult gear changes during their five-day stints in the Kurri Kurri-Abermain and Branxton-Greta areas. While community nurses struggle with driving these buses, one must remember that they are nurses first, and should be given reasonable equipment to ensure that they and their patients are not subject to safety problems. Currently the community is considering ways of addressing these concerns. Mr Coogan Frame is endeavouring to obtain funding through the CFMEU and Coal Services to find the \$125,000 needed to obtain a new bus to alleviate the current problems—something, as my constituents state, that both the Federal and State governments should be addressing as a health issue, not a mining industry issue.

One other issue raised was community nursing and its impact on the aged. The need for more funding for community nursing is immense. One only has to think about the reduction of beds at the Cessnock District

Hospital from 84 to 61 to realise that people are returning home from hospital earlier than previously, thus needing community nursing. In an ageing community such as Cessnock, the demand on community nursing is increasing. While this trend exists, we need to see a second shift or, as my community is demanding, the provision of an afternoon nurse for older people. The need for transitional beds in my community cannot be denied, but one must question the provision of transitional beds at the expense of acute beds during peak illness times such as the winter months.

With the pending sale of Allandale aged-care facility, my community is questioning the Government's commitment to my electorate, despite this sale being forced upon the State by the Federal Government's attitude towards the aged community across Australia. To show the Government's commitment, one has only to look at the budget figures and the increased allocations of \$3.35 million to the electorate of Cessnock from 1995 to 2001. However, this does not lessen the concern in my community about the availability of services from local district hospitals. The need to repair and upgrade the Cessnock ambulance station has been mentioned by numerous groups in my electorate. That is a matter that also needs to be addressed as soon as possible. *[Time expired.]*

**Mr MARKHAM** (Wollongong—Parliamentary Secretary) [6.00 p.m.]: I am pleased that the honourable member for Cessnock has raised this issue. I know Coogan Frame and, if he is trying to raise funds, he will not stop—he will be like a dog with a bone. I hope that the support offered by the honourable member for Cessnock will deliver for the community.

#### **KU-RING-GAI ELECTORATE BUILDING DEVELOPMENTS**

**Mr HUMPHERSON** (Davidson) [6.00 p.m.]: On behalf of my constituents in the Ku-ring-gai local government area, which constitutes a little more than half of my electorate, I must raise concerns about overdevelopment that have become increasingly more acute over the past seven years as the consequence of the Carr Government's policies in relation to urban consolidation. It is clear that Ku-ring-gai is paying a very heavy price for those policies that are driven by State environmental planning policy No. 5 [SEPP 5] and SEPP 53. The policies have led to the scattering of ad hoc, blunt developments throughout Ku-ring-gai, which has been a major target for these sorts of developments in the past seven years.

Ku-ring-gai has a mixed population, and the community recognises the need for diverse housing. However, that outcome will not be delivered by blunt, externally imposed policies. I recently conducted a survey of my constituents and found that about 90 per cent oppose development that changes and destroys the character of a locality, suburb or street. About 65 per cent of respondents—or two out of three people—recognise and support the need for diverse housing. However, this must be located appropriately, close to genuine transport infrastructure such as railway stations, shopping centres and support services.

We can change housing styles in a local government area such as Ku-ring-gai by allowing the community and council to develop a housing plan. Ku-ring-gai Council has moved a long way in that direction, but the Minister for Planning refuses to accept the plan, which recognises the heritage and natural significance of many parts of the local area. In light of that rejection, SEPP 53 has been imposed and the Minister has assumed the decision-making role—at last count there are 93 applications to rezone ad hoc properties throughout Ku-ring-gai. On a cold, bleak Saturday two weeks ago between 100 and 130 people gathered to state their concern about the nature of overdevelopment—consequential on the Minister's intervention—on two such properties in Lindfield Avenue and Tryon Road in my electorate.

We must facilitate a change in housing styles. The council has recognised the need for—and would provide if given the chance—townhouse, villa and medium-density accommodation located close to stations and other appropriate areas. Ad hoc development is not only remote from transport but is changing the character of streets. Ku-ring-gai is predominantly a residential area with ridge-top development, and any planning change will destroy the character of suburbs and the entire municipality.

Another consequence of the Carr Government's overdevelopment approach, including SEPP 5, its compact city policy and its strangulation of the release of land in Western Sydney and beyond, is increased pressure on in-fill development for urban consolidation. As the number of brownfield sites in various parts of Sydney has decreased, the larger allotments in Ku-ring-gai that are available for SEPP 5-style development have become increasingly more attractive. Unless SEPP 5 and SEPP 53 are repealed—a Coalition government is committed to doing just that—changes in Ku-ring-gai will accelerate exponentially. As a local member and as shadow and would-be Minister for Planning, I am committed to repealing those ad hoc blunt instruments that

have been used to foist overdevelopment on this community. I will work with local councils to facilitate a diversity of housing choice that meets the needs of all community demographics, including the elderly and younger people who want a multitude of housing choices.

### **LITHGOW CULTURAL HERITAGE PARTNERSHIP**

**Mr MARTIN** (Bathurst) [6.05 p.m.]: The Lithgow Cultural Heritage Partnership is very important to the local community, and a committee—which I chair—has been established under the auspices of the Minister for Transport. The major cultural heritage stakeholders of Lithgow have combined to progress a project that potentially establishes the largest cultural heritage precinct in New South Wales. This precinct includes nationally significant engineering and industrial heritage sites that are linked by, and closely related to, railway infrastructure. The mission statement of this group is:

To create a viable commercial enterprise which will develop, market and coordinate the management of Lithgow's heritage.

The sites include the Lithgow blast furnace, which is now owned by Lithgow City Council, where the first steel was produced in Australia; the great Zig Zag Railway, which, when it was constructed in 1869, was one of the great engineering masterpieces of the time and still operates as a tourist railway; Eskbank House, an 1842 Georgian mansion that is now a museum run by the Lithgow and District Historical Society; the Lithgow State coalmine, which closed in the sixties but whose precinct has been developed as a mining museum; the Small Arms Museum at the old small arms factory, which comprises probably the best collection of small arms and rifles in Australia; and the Australian Defence Industries small arms factory site, which was the site of the first pre-World War I producing mine in Australia when it was established by American company Pratt and Whitney. Also included are many Lithgow city heritage townscapes controlled by Lithgow City Council.

The stakeholders working on this project include the State Rail Authority heritage branch, the Heritage Office of Planning New South Wales, Lithgow City Council—particularly its tourist office—the Zig Zag Railway, the Lithgow Chamber of Commerce and the Lithgow Business Enterprise Centre [BEC]. The project is being driven by Ray Christison, Manager of Lithgow BEC; Michael Wilson, Vice-President of the State Mine Heritage Park and Railway; and a host of other people representing the council, the chamber of commerce and business.

The railway works required to complete the project include restoration of Eskbank railway goods shed, the interlocking and connection of points at Eskbank to Eskbank yard box, and the restoration of Eskbank railway station, which is central to the project. The project will link the Zig Zag Railway to Lithgow and the mining museum. It is a unique railway project. Its completion will enable people to board a CityRail train in Sydney, travel to the bottom points, travel on the heritage steam train to Lithgow and then on the Zig Zag Railway from where they can take trips on the western line to Mudgee, Tarana and so on.

The project has exciting potential and it is important that the committee that I chair enjoys the co-operation of all stakeholders—and at this stage there is every indication that it does. I am particularly pleased to have the support of the Minister for Transport. Potential tourism products from the project include an additional major man-made tourist attraction for the Blue Mountains. It is important that we establish a link with the Blue Mountains, and Blue Mountains Tourism is involved with the committee. As the honourable member for Lismore will know, this is a friendly, warm country community with enormous tourism potential. Light and sound shows could be held either at the blast furnace site or at the State Mine Heritage Park and Railway.

This project, which is located in beautiful mountain country, has a close link with Sydney and its major tourism market. Through our gateway tourism project, which the Minister for Tourism has funded—Lithgow City Council is working on the construction of that unique gateway project—people coming from the Blue Mountains and the city will be provided with tourist information which will enable them to go west and north of New South Wales. Some of the other features of this program include Lithgow's role in the development of the Australian nation. I spoke earlier about the first steel that was produced in Australia, the first production line at the small arms factory and the major role that factory played during World War I and World War II in producing all our small arms. At the end of the day this exciting project will bring together what I consider to be the assets of the most significant industrial heritage site in Australia—my home town of Lithgow.

### **CASINO BUSINESS VENTURES**

**Mr GEORGE** (Lismore) [6.10 p.m.]: I, like the honourable member for Bathurst, have had a good week which makes me feel proud of the electorate that I represent. Last week—Casino's annual Beef Week

2002—was no exception. Beef Week 2002 was a tremendous success, and Saturday's events were the highlight. The tremendous quality of the steers reflected what Beef Week is all about. I congratulate Terry Serone, Sandra Humphrys, committee members, sponsors and everyone involved who made Beef Week 2002 such a memorable event.

On Saturday night Lismore Unlimited Opportunities presented the Lismore 2002 Business Awards. The major award was presented to Summerland Credit Union. I congratulate Margot Sweeny and all those involved in the Summerland Credit Union team on their wonderful performance—the Lismore gold winner in 2002. Over 500 people attended a black tie dinner, which was a tremendous success. I congratulate Marion Forwood, Barry Robinson, Louise Barry and the team from Lismore Unlimited Opportunities on staging such a successful event.

After staging all these activities in the Lismore electorate we really hit the jackpot. On Sunday, Richmond Valley Mayor Col Sullivan had the honour of advising the community that the Campervan and Motorhome Club of Australia would be developing a motorhome village on airport land in Casino—a \$14 million investment in Casino. Sadly, Casino was one of the victims when Ansett went bankrupt last year, and Richmond Valley Council tried to find alternative uses for some of the land at the airport while still allowing aircraft to use the airport strip during daylight hours.

Richmond Valley Mayor Col Sullivan, Ross Schipp and the council executive are working with the Campervan and Motorhome Club of Australia, which is holding a convention in Casino next year. Council was able to sell land to that organisation, which will develop a mobile home village at Casino. Just as Casino celebrated what could be described as the most successful Beef Week, Mayor Col Sullivan made that announcement. The project, which will be developed over five years, is expected to cost \$14.04 million. It is estimated that club members using the village will inject a further \$22 million into the local economy.

The whole community is of course receptive to this injection of capital and is looking forward to making those people a vital part of the community. Once the village is developed it will encompass all the elements of the finest parks in Australia and overseas, offering a range of sites, including a section where members can retire from the road without sacrificing their continuing friendships and acquaintances. The project, which will have ongoing benefits not only for Casino but also for surrounding areas, will provide further financial benefits with a flow-on effect to the whole community. I congratulate Richmond Valley Council on its achievements.

Last week Neats Meats—another business that is opening up in Casino—was presented with \$871,000 through the dairy assistance program. I hope to be back in Casino on Friday to attend the opening of the headquarters of Interail—another organisation that is moving to Casino. Two years ago, when the Northern Co-operative Meat Company was struggling, Casino was considered to be down and out. But there are now jobs for local people and the community is firing. I am proud to announce that the attitude of residents in the Lismore electorate is now positive. As the local member for Lismore I am proud of that achievement.

**Mr MARKHAM** (Wollongong—Parliamentary Secretary) [6.15 p.m.]: Tonight we heard a good news story from the honourable member for Lismore. I have no doubt that residents in the electorate of the honourable member, particularly those in Casino, must be buoyed about investment in the Casino area over the last few years. I ask the honourable member to pass on the congratulations of every honourable member to all those involved. When communities come together they achieve something from working hard, and they get a fair kick out of that. I thank the honourable member for bringing this matter to the attention of honourable members.

#### **YAGOONA PUBLIC SCHOOL FIFTIETH ANNIVERSARY**

**Mr STEWART** (Bankstown—Parliamentary Secretary) [6.17 p.m.]: Tonight I strongly support and celebrate public education in this State. There is no better way to do that than by referring to the fiftieth anniversary celebration of Yagoona Public School last weekend. I bring that important event and the impact it has had on Bankstown local community to the attention of honourable members tonight. Yagoona Public School opened on 29 January 1952—some 50 years ago. Children came from a number of neighbouring schools as parents had been petitioning for a school at Yagoona since 1938.

The school was established after the war as a result of a baby boom and a population increase in the area. On the first day of the school the headmaster, Mr Nance, had 400 pupils, four classrooms and no desks or furniture except for two kitchen chairs that had been brought to the school by a local teacher. There were no

writing materials and not even a piece of chalk in the school. Local halls were rented to accommodate students. One class was even accommodated down the road at Bankstown Public School, which had already been built. New buildings were authorised, demountables were supplied and the school was under way. These days the school has 477 students, 32 teachers and 10 support staff.

Students come from diverse cultural backgrounds, which is indicative of the Bankstown area. Bankstown has people of around 122 different nationalities, and that diversity is reflected at the school. There are children from 32 cultural backgrounds at the school. Arabic and Vietnamese children represent the major groups, but there are also children from the Macedonian, Cantonese, Chinese, Samoan and Urdu communities. Frank Hickey—a fantastic person—has been the school principal for the last 16 years, and will be retiring later this year. Frank Hickey, who has had an outstanding career in public education, placed much emphasis on public education at Yagoona Public School—a microcosm of what can be achieved through public education in this great State.

A number of students with a claim to fame have gone through the ranks at Yagoona Public School. They include Professor Jacqueline Smith, a doctor of human psychology at Berlin University—a very eminent person in the field of psychology for the ageing who has achieved world renown for her studies; television reporter David Margin, who has now gone to Channel 9 in Brisbane; Jeff Lindsay, a senior barrister in the Sydney area; and Michael Bailey, whom New South Wales Young Labor recently elected as its secretary. Michael Bailey might be a future Premier or Prime Minister. Yagoona Public School educated Michael and other young people who now have a great future.

It is important to name and acknowledge the teachers: Lynn Beevers, Carolyn Bourke, Robyn Bush, Cveta Chumkovska, Loina Cross, Robert Cullen, Antonella Ferrara, Angie Gordon, Frank Hickey—the Principal—Bonny Howes, Sarah Hurst, Karen Johnston, Tanya Joost, Fiona Jordan, Sue Kaim, Carol Kass, Sandy Kluin, Anastasia Kordas, Yi-Ping Mao, Ban Markho, Nigel McClifty, Lyn McDonald, Jan Meisel, Noreen Navin, Jenny Newton, Margaret Pickering, Ilana Shagrin, Duc Tran, Dimitra Valentino, Anastasia Zafiroopoulos, Julie Vidgen and Deborah Ward. They are a great teaching staff and they have a wonderful support staff: Kerrie Bolton, Fay Corish, Anne Dodds, Karen Hastie, Darrel Mole, Linda Mole, Michelle Pappas, Jan Plumridge, Angela Tsakalos and Maria Williams.

Yagoona Public School is a great example of public education and I am extremely proud to have it in my electorate of Bankstown. Together with Bankstown RSL officials I recently visited the school to donate eight guitars to the school. The music teacher, Noreen Navin, is heavily involved in music and has helped the students with their music. The guitars were a donation from the RSL and me to let the school know that we care about what they are doing. I am sure that some wonderful musicians will come out of the school and that one day we will all be talking about them. As I say, it is a great example of public education.

### HOME WARRANTY INSURANCE

**Mr R. H. L. SMITH** (Bega) [6.21 p.m.]: I wish to join with other speakers to bring to the attention of this Government the crisis that faces the building industry. It was as long ago as last July that I was first contacted by a local builder saying he was unable to get home warranty insurance. This was despite the fact that he had been in the industry for many years. He had contracts to build four homes and had all his subcontractors ready to start. Five months later he still had no insurance. His subcontractors have all gone on to other jobs—some out of the area—and the contracts have, of course, all lapsed. I believe that that builder is now facing bankruptcy. I am sure that other members have also had to listen to stories of builders faced with losing the family home due to the inability of this Government to come to grips with this insurance crisis.

Six weeks ago I hand delivered a plea to the Minister for Fair Trading regarding a major development in the coastal village of Tathra that is also under threat. I pointed out to the Minister that apart from dwellings, there had been no major construction work in Tathra for years, and that this proposal consisted of tourist accommodation and a conference centre, both of which are in demand on a year-round basis. After numerous delays and requests for additional information, the company now has the relevant piece of paper to enable the project to proceed. The job has a construction cost of \$1.6 million. To comply with the insurance company's requests the developer had to provide indemnity for about twice that amount. In the event of a claim the family themselves would be bankrupt before the insurer would be exposed to one cent of risk. To my mind this is not insurance. Builders are having to pay huge amounts of money to satisfy a requirement of this Government, for which they receive nothing in return.

Last month I interviewed another builder, Colin Guest of Pambula Beach. Colin had a similar tale to tell. He has been a builder for 30 years and has never had a claim against him. He has also received awards for

building excellence and innovation. In 1998 he expanded his operations into the more lucrative ACT building market, while still maintaining a local presence. However, Mr Guest has not been able to undertake any new contracts since June last year. He informed me that he has received no income for 10 months, is surviving on overdraft finance, and may lose his home.

I am sure that members will agree that this is an intolerable situation and that it is a disgrace that this Government has not stepped in to help these smaller operators who are an integral part of any rural community. However, the purpose of my speech tonight is to pass on to the Government the positive suggestion put to me by Mr Guest, which I think needs to be thoroughly investigated. He has given me a press release from the Master Builders Association in the Australian Capital Territory that outlines a proposal for a new housing indemnity scheme whereby builders in Canberra would be able to avoid the vagaries of the private insurance markets.

In brief, the concept revolves around an industry-based insurance scheme whereby the builders themselves provide the insurance, underwritten by the Australian Capital Territory Government. This would be by way of a levy on builders and would have the double benefit of protecting clients in Canberra and also keeping the money in the local area, rather than it being swallowed up by multinational insurance companies. This sounds a far better system than the miserable experience of the very experienced Tathra builder who waited 77 days for a piece of paper to upgrade insurance but which, in the end, does not seem to cover anyone for anything. This crisis has not gone away. Builders are still facing financial ruin through no fault of their own. It is time this Government stopped blaming the Federal Government for every difficulty that faces it and started to make some effort to honour its obligations.

### **TALENT ADVANCEMENT PROGRAM**

**Mr ASHTON** (East Hills) [6.26 p.m.]: During the recent short break I had the opportunity to attend the opening night of the Talent Advancement Program [TAP] at the Bankstown Town Hall. There is a bit of history to this. In the year 2000—the year of the Olympics in Sydney—Bankstown City Council, with the Department of Education, produced a unique and brilliant entertainment spectacular called the Bankstown Millennium Buzz. More than 3,500 local students from more than 70 schools and local dance groups performed over four nights in front of sell-out audiences at the Dunc Gray Olympic Velodrome.

The youth of Bankstown on display on those four nights so impressed the elected members of this Parliament, Bankstown City Council and the school committees and parents, that the Talent Advancement Program was thought of. It has been created and was launched about two weeks ago in Bankstown. The program will enable talented youth in Bankstown to learn musical instruments, to perform, and to develop their musical, acting and dancing abilities outside of school hours. It provides a bit of a backdrop to the great reputation that Bankstown already has as the sporting capital of New South Wales and, in part, Australia.

I am particularly proud of the partnership between the council and the local schools and teachers, which has always been excellent in Bankstown but will grow even more with this TAP. The recent announcement by the Carr Government of a \$1.5 million grant to help refurbish the Bankstown Town Hall will help to re-establish that building as a first class entertainment venue for events like the launch of the Talent Advancement Program. When that great town hall was opened—I think it was in 1973 by Gough Whitlam—many people initially said, "How dare Bankstown have such a great town hall." The argument was that places like Bankstown, and I guess Penrith, Blacktown and probably Wollongong, should not have these sorts of facilities.

It was thought that rates should be spent only on potholes and footpaths, and that Bankstown people were not cultured enough to actually have these sorts of facilities. Thank God the civic fathers and mothers at that time had the vision to build the town hall. With the \$1.5 million grant, it will be refurbished so well that it will be a first-class venue for the young people who perform there. The program will identify local talent, provide encouragement and support by experienced coaches, develop confidence in our young performers, and assist juniors in years 5, 6 and 7 and seniors in years 8, 9, 10, 11 and 12 to advance. The Talent Advancement Program will showcase their talent with appropriate events.

I want to congratulate Ian Millard, the Principal of Revesby Public School, who will be the program director of TAP, as well as maintaining his position as a school principal. He already has a fine record of musical and entertainment production, including involvement in the 2000 Olympics opening and closing ceremonies, the Pacific School Games ceremony, and the continuous promotion of the Bankstown District Public School. Wendy Tierney will play a vital role as musical director. She has been active for more than 30 years in developing talented youth, and her efforts at the Olympic and Paralympic Games ceremonies were



outstanding. One or perhaps two of Wendy's sons are members of Human Nature, and one of her daughters was Miss Australia some years ago and is still a performer in entertainment circles. Helen Parin, who is a creative consultant with a career in television, cabaret and theatre, has now been seconded to the New South Wales Performing Arts Unit to help develop the TAP.

The launch was attended by all State members of Parliament whose electorates cover part of the Bankstown City Council area, including the honourable member for Auburn, the honourable member for Menai, the honourable member for Bankstown and the honourable member for Georges River and myself. Time does not permit me to describe the full range of performances, but I will place on record the names of the young people who performed on the night. They were Pauline Curuenavuli, Arnott Olssen, Ria and Christine Pirrelli, Amanda Tunks, Luke Dixon, Xi May Zhen, David Gordon, Jessica Smith, Sarah Bertram and Lia Hickey. Xi May Zhen, who is 10 or 11 years old, performed an individual violin performance that was absolutely brilliant. I congratulate the Mayor of Bankstown, David Blake, his councillors, and the Department of Education and Training, Bankstown region, under the leadership of Dennis Mackenzie, on this outstanding co-operative partnership to provide the training and facilities for our talented youth to develop their musical and entertainment skills.

### **Mrs NAN ADLER AND WARRINGAH COUNCIL**

**Mr BARR** (Manly) [6.31 p.m.]: I bring to the attention of the House a most disturbing matter regarding the legal harassment by Warringah Council of a local business person, Mrs Nan Adler. This is a developer-driven council that is prepared to vote for all sorts of concessions for its developer mates but is determined to pursue a small shopkeeper to the bitter end over a minor matter. Mrs Adler owns and runs an outdoor shop on Pittwater Road in Collaroy. The shop includes a frontage onto Pittwater Road that was constructed and approved as retail premises. The building won a council award for design in 1992. At the back of the shop, opening onto the adjoining street, which is Ocean Grove, is an area designed as internal parking for four cars. Mrs Adler has been using this space for storage of excess stock. At no time has a member of the public complained about this use.

In 2000 Mrs Adler lodged a section 96 application to modify the parking space in order to extend the shop and formalise the storage arrangement. The development application put into train a series of disturbing actions on the part of the council. First, Mrs Adler was required to undertake an extremely detailed and extensive traffic study to assess the impact of the proposed loss of four internal parking spaces. I am told that the study was more thorough and complex than is usually required even for major commercial developments such as shopping centres. When the study was deemed insufficient by the council, Mrs Adler was forced to do a second traffic survey focusing on peak periods over a month. Then a third study was required, looking at traffic in five-minute intervals over the operating day, including weekends and public holidays. The third study also included interviews at five-minute intervals with every customer present in the shop, grilling them about how they had travelled there, how many people were in the car, and so on. This is jackboot Gestapo stuff.

Yet all this was still not the end of the information that council required Mrs Adler to gather. The council insisted that she provide sales figures for the shop—by the hour, every day over 12 months. Naturally this was an extremely difficult and expensive process, requiring an accountant to go through the entire records. After all this, the council refused the section 96 application and Mrs Adler appealed. Only 48 hours before the matter went to court, the council demanded that the information from the previous traffic studies be presented again, in a different format. Once again, this unreasonable request caused significant trauma and expense for Mrs Adler. During this whole process the council refused to negotiate or co-operate with the owners, although Mrs Adler tried every avenue including legal meetings. Instead, council staff were hostile and over the top in pursuing every technicality. A junior town planner visited Mrs Adler several times on an official basis, and was also seen a number of times sneaking around the property and taking photographs from across the street. It is obvious that council staff have been instructed to engage in these appalling tactics as part of the campaign of harassment against Mrs Adler.

What is more, the facts show that the council has been highly selective in its pursuit of Mrs Adler. Directly across the road on Ocean Grove a retailer used a double garage as a retail outlet for carpets for at least 10 years. The retailer suffered no complaint or investigation, despite the fact that the illegal shop was operating during much of the time Mrs Adler was being pursued. Mrs Adler was successful in her appeal to the Land and Environment Court on all counts. The council is now considering whether to stretch the matter even further by appealing the decision. The council is considering a technical appeal relating to whether retrospective approval can be given for unauthorised building works under section 96 of the Environmental Planning and Assessment Act. It has generally been regarded that retrospective approvals cannot be given, but two recent cases have created a new precedent.

The first and most significant of those cases is known as the Windy Dropdown case. In essence, Warringah council is proposing to use the Adler case as a test of a legal point raised in the Windy Dropdown case. The interesting fact here is that the original party to the Windy Dropdown case was none other than Warringah council. The council had every opportunity to appeal this technicality at the time. The attempt to overturn the precedent created by the Windy Dropdown case will be at the expense of Mrs Adler and ratepayers. It is difficult to see the decision to pursue this technical appeal as anything other than a continuation of the harassment against Mrs Adler. To make matters worse, even if the council is successful in its appeal, it will not affect the decision about parking, which was made in Mrs Adler's favour. In other words, even if council wins, the practical outcome will not be any different. The only difference would be extra cost and inconvenience for Mrs Adler.

It is true that Mrs Adler had carried out some minor internal modifications without approval in order to formalise the use of the interior space for storage and retail, and that she did some work before she lodged a section 96 application. But there is no way that this relatively minor infringement could possibly warrant the trauma she has been put through. This is a trivial matter, and yet she is more than \$150,000 out of pocket and facing tens of thousands more for an appeal. I regard this as a clear and outrageous case of harassment of an ordinary business person and ratepayers. The council has wasted a large amount of ratepayers' money and public resources pursuing a personal vendetta against Mrs Adler.

One can only speculate about the real motivation behind this contemptible behaviour. Does it have anything to do with Mrs Adler's refusal to grant a drainage easement to a developer neighbour who has influence within the council? The council must step back from this campaign of victimisation and accept that it has lost in the court. An appeal would be the ultimate act of vindictiveness. If the council is so concerned about the application of section 96, it should approach the Minister and the Local Government and Shires Associations, and not engage in this kind of legal thuggery. [*Time expired.*]

**Private members' statements noted.**

[*Mr Acting-Speaker (Mr Mills) left the chair at 6.36 p.m. The House resumed at 7.30 p.m.*]

**CIVIL LIABILITY BILL**

**Second Reading**

**Debate resumed from 28 May.**

**Mr DEBNAM** (Vaucluse) [7.30 p.m.]: I can say at the outset that I am not pleased to speak on this bill. This bill is all about Labor selling its soul, and I will demonstrate that as we move through it. We need to understand what the bill does. It is called the Civil Liability Bill 2002. Up front it says:

The object of this Bill is to make the following changes to the law in respect of civil actions for damages. The Bill provides for the proposed Act to commence retrospectively on 20 March 2002.

What this bill does is deliver for insurers. The insurers wanted, the insurers asked and the insurers got. There is no doubt that if this bill is passed by the Parliament it will reduce insurer payouts, it will improve insurer profitability and it will reduce the rights of injured people. That is the simple summary of this bill. What Labor has also done under the bill is create two classes of injured people. I say at the outset that in the upper House we will move to amend that provision. I expect that we will get support for the amendment. I suggest the Government take on board that it made a very big mistake in creating two classes of injured people in this State. The Government can consider that in the next few days, and accept the amendment.

Let us consider the context in which this bill has been delivered to the Parliament. This bill was preceded by a few other actions relating to insurance. Last year the Premier was seen on the steps of Parliament giving a two-fingered salute to injured workers. What was all that about? Changes to workers comp. Labor has sold out again, but Labor sold out a year ago when it made those changes. The Premier was out there on the front steps of Parliament delighted to lord it over injured workers. This year, with public liability, the Premier is again giving a two-fingered salute to injured people who could claim under public liability insurance. Today, again, there was a rally out the front of Parliament, in relation to home warranty insurance. What was that about? It was about the Premier and the Minister for Fair Trading turning their back on builders—and turning their back on consumers, I might add, for a number of years, because the system under which home warranty operates has been falling apart for five years, ever since the Minister who was responsible for privatising it, Faye Lo Po', did not do her job in following through with the regulatory side of the proposals.

This bill has the precedent of the workers comp and the home warranty insurance schemes. The Premier has turned his back on people who need help. He has simply turned to the insurers and asked, "What do you want?" The insurers have set out their demands, and in almost every case they have been delivered. In considering why this has taken place we have to look back at the seven years of the Carr Government, which started in 1995. The Premier conducted a scorched earth campaign across the State. He promised the earth and in the following years delivered nothing. He got himself into great difficulties on a number of issues. The Premier has become increasingly arrogant. We do not use those terms.

**Mr Thompson:** A man of the people.

**Mr DEBNAM:** That is interesting. I was going to make the point that Opposition members do not use the term "arrogant" in relation to the Premier of this State. We have not had to for about 18 months, because we are surrounded by the people of New South Wales, who are using that term about the Premier. They are talking about an arrogant government, an out-of-touch government and a Premier who clearly, to some extent, has contempt for his job. Over the years he has joked about it but it is actually resonating in the community. The community does not believe that the Premier is interested in delivering for the people of New South Wales. Tonight we are considering another bill that proves that the Premier is interested in delivering for the insurers, not for the injured people of New South Wales. So we have had seven years of arrogance, seven years of a Premier who is contemptuous of his own job, and seven years of a Government increasingly out of touch.

I will go back to the original consultation draft and then the final bill. I have to ask: Where is Labor's Left? What happened to Labor's Left on this issue? What happened to Labor's Left last year on workers comp? Where is the conscience of the party? Having been in this place for about eight years now, I had developed a grudging respect for some members of Labor's Left who actually seemed to be principled. But, what has happened? Has Labor's Left sold out to big business as well, the same as the rest of Cabinet? Or have members of the Left simply gone to sleep? I do not know. They must be getting the same message that we are getting from the community. Every Coalition member is getting strong representations about the Civil Liability Bill that the Government has imposed on the people of New South Wales.

Surely the members of the Left in Labor's Caucus must be getting those same representations. What are they doing with them? Have they simply gone to big business? Have they realised that they are a government headed for a third-term election and they do not have much hope unless they can get big business and big unions on side—and presumably big fund raising, too, I would suggest? Is that what has happened? Labor's Left has simply gone to big business? Or were members of the Left beaten into submission in the caucus room? What happened? Did the Premier stand up and say, "I've gone public on the Civil Liability Bill. Nobody can oppose it. Nobody can recommend changes to it"? I will go through some of the changes that have been made, but they did not come from caucus; they came from a few other people in the community.

The bill has gone to big business and one of the reasons is that this Government has itself become big business. It has become a big business focused on increasing revenue. It is a tired and wasteful government, and the one thing it does well is claw in a huge amount of revenue. It is doing it on public liability insurance premiums. It is pulling in stamp duty hand over fist. Time and again the Government has been asked to consider relief on stamp duty, remembering that the community is concerned about two things with public liability. It is concerned with the level of premiums and with outrageous claims.

In relation to premiums, the community is very aware that the Carr Government is raking in huge amounts of stamp duty from insurance policies and each time the premium goes up so does the New South Wales Treasury stamp duty. That has been the focus of much of the Carr Cabinet. It has undoubtedly been the line that the Treasurer has run over seven years. He could not control his spending Ministers so he took every opportunity to rake in revenue, whether through new taxes, increased taxes, the windfall in stamp duty on insurance policies, or charges or user fees. That has been the total focus of the Carr Government. That is the case in relation to this bill as well. The reality is that the Carr Government has simply become another big business focused on revenue, focused on stamp duty.

It is interesting to look at what some other governments are doing. On 20 May Jim Bacon brought home the bacon. He abolished some stamp duty on public liability insurance premiums. He heard the pain of all those community groups and small businesses who were screaming about premiums in that State. He asked what the Government could do immediately. It could provide some stamp duty relief, and it did. Jim Bacon delivered for the people of Tasmania. The Premier turns his back on them. The same thing occurred in the Australian Capital Territory. The Australian Capital Territory Government is looking at exemptions from stamp duty. That

Government has heard the pain of small business and community groups with public liability insurance premiums and is delivering. The New South Wales Premier has turned his back on the whole issue of excess stamp duty or windfall stamp duty from the people of New South Wales.

This bill creates two classes of people: those injured by the Crown, and second-class citizens injured in other circumstances. Let us talk about why the consultation draft of this bill was amended to create two classes of people. I refer to an article in the *Daily Telegraph* of 22 May under the headline "State Rail plays 'hard ball' with Glenbrook victims". That is what this issue is about. The Carr Government realised that it had fallen into its own trap. It wants to get out of that trap by creating two classes of injured people in New South Wales. There are those who are political embarrassments, and there is the rest of New South Wales. The Government said if you are going to sue the Crown you will have more favourable treatment under this bill. I assume government members are not denying that that is the case. They are not, because it is true. A political embarrassment to the Carr Government gets more favourable treatment under this bill. Anyone like the rest of us, not in a position to sue the Crown, gets the harsh treatment. That is the simple reality. I do not know whether the Labor caucus understood what it was approving when this bill went through.

**Mr Campbell:** Even you don't believe that.

**Mr DEBNAM:** I do believe that.

**Mr Campbell:** You don't!

**Mr DEBNAM:** I do. This Government is politically, morally corrupt. It has created two classes of citizens of New South Wales, based on whether one is a political embarrassment or not. That is the article, in the *Daily Telegraph* of 22 May, headed "State Rail plays 'hard ball' with Glenbrook victims". That newspaper is a journal of truth and honesty, and this piece of paper managed to change the Government's policies. That is amazing, but it is exactly consistent with everything the Premier has done over the years. He is focused on one thing, and that is headlines.

**Mr O'Farrell:** He is a human headline.

**Mr DEBNAM:** Yes, he is. He is a human headline. This is the piece of paper that changed government policy and made the Government truly hypocritical. I do not know how government members will explain this to their constituents, but I can understand politically why they did it. We are going to undo it. We will amend it in the upper House. We will succeed. The Government will not get support in the upper House to create two classes of citizens—those lucky enough to be politically embarrassing to the Government, and everybody else. We will amend it.

Labor's change here alienates probably 99 per cent of injured people in New South Wales. It leaves them out in the cold. As I said before, the bill will reduce insurance payouts, there is no doubt about that. That is the clear purpose of the bill. It is a mathematical bill. It will increase insurers' profitability. The insurers can argue till the cows come home whether they are making a loss on this type of insurance or a profit. If they are making a loss, this will clearly improve their profitability. If they are making a profit, it will increase. In delivering for insurers, Labor has sold out injured people in New South Wales.

We need to look also at the Premier's call for the Australian Competition and Consumer Commission to put pressure on insurers. What is that about? That is simply an admission of failure of this bill. It is an admission that the Carr Government's Civil Liability Bill is a failure and will not reduce premiums. I will refer a number of times tonight to the qualifications placed on the reduction in premiums. We will not see reduced premiums from this bill. All we are seeing are reduced rights for injured people. The bill simply will not provide, despite the Premier's rhetoric. He seems to think he can travel around the State with this rhetoric, this umbrella, over the people of New South Wales. This bill will not protect them. The bill does not protect local government. It does not protect community groups. It does not protect sporting clubs, small business or incorporated associations. It does not protect good Samaritans. It does not protect any of those people in New South Wales from outrageous public liability claims. But the Premier, the human headline, has been travelling around for months talking about the stage two reforms, saying that he will deliver for people and remove these outrageous claims. The measures to protect people against outrageous claims are not in this bill. They are in stage two, if we ever see stage two.

There is a lot of difference between what the Premier says in a press release, a media grab, and what he puts on the table. We have seen it time and again and we will see it in stage two. The Premier will not deliver on

his rhetoric. He will not deliver until he feels it is a politically opportune time to deliver that bill. He does not care about the community groups and sporting clubs who will suffer through the next five months of winter under high insurance premiums and this culture that has created outrageous claims. The Premier does not care about that. He is focused on the election date of 22 March next year, and is leaving stage two reforms until after the winter break of Parliament, whipping up more hysteria in the community and making sure that everybody is focused on the fact that the Premier is delivering supposed improvements to the public liability regime in this State. He will do it when he thinks he will get maximum political benefit from it. I say again that this bill does not protect local government, community groups, sporting clubs, small business, incorporated associations or good Samaritans from outrageous public liability claims.

This bill does not attack warts in the system, it does not introduce commonsense to the debate. Those aspects are awaiting the stage two reforms that we might see some time later this year. I would not put it past the Premier to actually hang out everyone in New South Wales to dry until February-March. If he thinks that he can get more political benefit by delaying the supposed stage two reforms until February-March I would not be surprised to see him do that. If the Premier was truly working in the interests of the New South Wales community—and I add that he has not done that for seven years—he would introduce the stage two reforms this week. We might see them next week. I think we should see them this week, but we will not.

We will not see the stage two reforms, because like everything else the Premier has done in his entire time in this Parliament, he plays for maximum media advantage. If the Premier were serious about the reform of public liability we would have seen his so-called stage one reforms, which are mathematical changes to improve insurers' profitability, combined with the stage two reforms that Justice Spigelman has spoken about a number of times. Today in this House the Premier said something that was simply wrong. Clearly he was attempting to mislead the community, but I do not think he succeeded and I do not think he will succeed in tomorrow's press.

I want to make this point. Today when the Premier came into this House he was aware that the Opposition was going to amend the bill. He was aware of our proposed amendments. Our intention was very clear, it was in a statement that we issued last night and which the media ran today. There was no doubt that the Opposition proposed to amend the bill by removing the two classes of citizens that the Premier had created. A few minutes ago I referred to the *Daily Telegraph* article of 22 May under the heading "State Rail plays 'hard ball' with Glenbrook victims". After that article was published the Premier, smart as ever, media savvy, human headline, changed the draft bill to create two classes of people. His view is that if you are a political embarrassment to the Government, because you are suing the Government you will now get more favourable treatment. The rest of you can go jump.

The "rest of you" refers to all the injured people, and the Premier said that they can go jump. He knew exactly what the Opposition was proposing; our amendment will simply remove that discrimination against 99.9 per cent of the people of New South Wales and give equal treatment under law to everyone. But rather than offering a reasoned response to Opposition amendments the Premier raised the stakes with an increasingly rhetorical flourish. His rhetoric and his prances around this Chamber are definitely getting worse. In the corridors in recent months I have said many times to Bob Ellis that the Premier's scripts are getting worse.

The Premier is relying on old rhetoric and old flourishes and we are all losing interest in the way he plays the game. As I said, the community is telling us that it has lost interest in the way that the Premier is playing the game. The Opposition does not use the words "arrogance" or "out of touch" or "contempt for his job" or "contempt for the people of New South Wales" because so many people we meet use those words, unprompted; we do not have to raise them in conversation. Today in question time the Premier said that the Opposition was gutting the bill. Clearly, that is not the case. All we are doing is removing an anomaly that creates two classes of people.

The human headline simply made a political decision that was unfavourable to most people in New South Wales. That decision was wrong, we have said it is wrong, and we will change it. The Premier tried to mislead the people and to whip up anti-Opposition hysteria, but I do not think that that will happen. The Opposition has confirmed that the bill will be amended to ensure that all citizens receive the same treatment, despite the Government's preference to give more favourable treatment to any politically embarrassing cases, that is, when the Crown is being sued.

The Carr Labor Government has time and time again tried to whip up hysteria to force the community to accept Labor's proposed changes without question. A point I have made continually in public, and make now, is that the Opposition will continue to make the Government accountable. That is what we are doing, and that is

what we will do with this bill. Every single day, every single week, every single month, right up to the election on 22 March next year, we will explain this bill to the people at every single opportunity. We will make the Premier accountable and will tell the people what he has done. We will certainly say that he attempted—but his attempt will not succeed in the upper House—to make second-class citizens of most of the people of New South Wales.

The Opposition will simply not accept that. As I said, Labor's bill gives more favourable treatment to those suing the Crown but denies equal justice to anyone else who claims. That is simply wrong. On 24 April the Leader of the Opposition issued a press release offering a bipartisan approach to this bill. He said that the Opposition is very happy to sit down with the Government and he agreed that this bill is of significance to New South Wales. He offered to talk through the provisions of the bill and what will be agreed to. Time and again he offered, publicly, to do that. But that was not agreed to. Why? Because the Premier is totally focused on the media, he does not want a reasonable solution to the public liability problem in New South Wales.

The Premier simply wants as many headlines as he can get, to dominate question time, to dominate the media. That is what this is all about. That is why the Opposition cannot be reassured by anything he does. We cannot be reassured by some promises of a supposed stage two reform at some time in the future. I assure all honourable members that the community is not reassured by the Premier. The community is very concerned about the Premier's arrogance, that he has lost touch, and that he goes to more book launches than public meetings. He is the cocktail party Premier, the book launch Premier. That will be seen again next week, on Friday.

**Mr O'Farrell:** Friday this week.

**Mr DEBNAM:** We will see that on Friday this week. In the week that the Premier introduced this bill he is to attend another book launch. Whose book is it?

**Mr O'Farrell:** His book.

**Mr DEBNAM:** It is the Premier's book. He has written a book and he is launching it this week. We know where the Premier's priorities are, they are not on delivering for the people of New South Wales but on writing and launching books. On 8 May the Leader of the Opposition called on the Premier to come clean on insurance costs. Did the Premier do that? No, he did not. The Premier issued a couple of reports, to which I will refer later.

**Mr Moss:** When are you going to talk about the legislation?

**Mr DEBNAM:** I am talking about the legislation. Clearly, the honourable member for Canterbury has not spoken about this bill with his constituents, clearly he has not spoken about this in caucus, clearly he has not stood up for his principles but he has just sold out. That is what he is about. The honourable member for Canterbury is a Parliamentary Secretary, and that is what he is on about. This bill will be of great concern to him every single day until 22 March. He can be assured of that.

The insurance industry has not come clean on insurance costs. One of the things that the Premier claims that he is doing is more media coverage. On Thursday 23 May on the ABC news he said that Queensland and New South Wales surf clubs will be protected from rising insurance costs. The Premiers of Queensland and New South Wales agreed to legislate to protect surf life saving clubs. The Civil Liability Bill does not deliver on that statement, which was the first sentence in the news grab. The Premiers were grandstanding. The human headline was out there again, implying, but not directly saying, that the Civil Liability Bill will protect surf life saving clubs. That is what the Premier implied. The Premier implied that what he is doing in this House, tonight, is protecting the clubs; he is not. Let us be very clear on that. This bill will reduce insurance payouts to injured people, reduce the rights of injured people and improve insurers' profitability.

**Mr Campbell:** The honourable member does not support volunteer surf life savers.

**Mr DEBNAM:** This bill will not protect surf life saving clubs, small business, community groups, women's groups holding cake stalls and good Samaritans from outrageous claims. I will discuss that issue further in a moment. On 27 April this year Justice Spigelman addressed a conference in Launceston.

**Mr O'Farrell:** He is the Premier's friend.

**Mr DEBNAM:** Indeed. Isn't he Premier's friend who seriously criticised the Premier on this issue?

**Mr O'Farrell:** I'm not sure.

**Mr DEBNAM:** I think he did. I think he publicly took the Labor Premier—

**Mr O'Farrell:** His mate.

**Mr DEBNAM:** I think Justice Spigelman took his mate to task on this bill. I do not know how many honourable members have read Justice Spigelman's excellent speech, which goes to the heart of the problem. Clearly, the speech was not dreamt up on 27 April; it had been in Justice Spigelman's mind for some time, and I suspect that in conversations perhaps with the Premier these thoughts may have been set out. On 27 April Justice Spigelman made a speech headed "Negligence: The Last Outpost of the Welfare State". That speech goes to the heart of the supposed stage two reforms which we have not seen, which we will not see next week or next month and which we may not see until much later in the year, when it suits Premier Carr to release them. Perhaps then we will see the stage two reforms that Justice Spigelman addressed in his speech. If honourable members have not read Justice Spigelman's speech I suggest they do so, although it takes a while to read it. It is an excellent speech that will undoubtedly flow into the stage two reforms.

Honourable members need to be aware of the speech before they debate the stage two reforms, if they are introduced in this State before the election. As I said, the stage two reforms should be in the House tonight. Certainly, they should be in the House this week so that we can consider them with this stage one amendment. The real problem with the consultation draft released some time ago was that it was another example of the Government governing by press release. The Premier released the consultation draft with a rhetorical flourish, saying that this is where New South Wales is heading. We knew that changes would be made before the bill was introduced. Undoubtedly, changes have been made and I will run through them in a moment. I shall mention a few key features of the bill presented a few weeks ago. The retrospective nature of the bill is an issue, which the Opposition raised to ensure that all people in New South Wales are treated equally under the new legislation. Clause 2 of the bill states:

This Act is taken to have commenced on 20 March 2002.

From memory, that was the date of another press release issued by the Premier. That is the way this State works—by press release. That is where the legislation was going to be anchored until an article in the *Daily Telegraph* of 22 May, which made life more difficult for the Carr Government. The article forced the Government to consider that it was creating two classes of citizen in New South Wales, which it did. The bill makes a number of changes. Honourable members should look at the definition of "non-economic loss", which includes pain and suffering, loss of amenities of life, loss of expectation of life and disfigurement.

The bill refers to several pieces of legislation, including the Workers Compensation Act and the Health Care Liability Act. To some extent, the bill includes different provisions from those Acts, and it also makes consequential changes. When I was asked about the consultation draft of the bill my first response was that it was a dog's breakfast. A number of the proposed changes were outrageous, and some of them simply appeared to be wrong. One proposed change in the consultation draft related to damages for past or future economic loss—maximum for loss of earnings, et cetera. Clause 12 (2) of the consultation draft stated:

... the claimant's net weekly earnings would (but for the injury or death) have exceeded \$2,712.

Even after quickly reading the consultation draft I failed to understand why the Government was protecting an earning capacity up to \$250,000, which was the effect of clause 12 (2) in the consultation draft. During the time between the release of the consultation draft and seeing the final draft I asked everyone to explain to me why the Government had inserted that provision, which seemed to be totally illogical. I suggested that there was one reason for the provision: the Government had made a mistake in the consultation draft and inserted "net" instead of "gross". I suggest that if honourable members read the final bill they will realise that that is exactly what the Government did. The Government did not do its homework, as it did not do its homework on many other pieces of legislation that have been introduced over the past seven years. In such a simple bill the Government simply inserted "net" instead of "gross".

In recent weeks many people have expressed opinions about, and focused on, gratuitous attendant care services. However, one aspect of the bill they have not focused on but which they should truly understand—Labor members should truly understand this as well—is that relating to the percentages contained in the table on

page 9, which contains a threshold of 15 per cent. That gives the impression that people will receive considerable compensation once they get over the 15 per cent threshold, but that will not be the case. If the severity of non-economic loss is 15 per cent, the amount of damages for non-economic loss will be 1 per cent. Only at 33 per cent does it accord with the maximum amount of damages people will receive under these changes to the legislation. Between 15 per cent and 33 per cent the amount of damages is graded, and the maximum amount of damages increases from 1 per cent to 33 per cent. Honourable members should understand that, because they will have to explain it to many people over the next 10 months as we move towards 22 March 2003.

The bill provides for the Minister simply to make decisions under regulation. That is not unusual, but it is of concern when the Government has clearly done yet another deal with big business and is writing into regulations an ability to change significant aspects of the bill. Under the consultation draft, we had a debate about lawyers' costs, which would be limited to \$5,000 or 15 per cent. That was simply part of the lawyer-bashing media strategy that carried on for months and was finally delivered in the form of this bill. I turn now to what the Premier is doing. As I said, the Premier has basically been governing by press release. The Opposition has made that point time and time again. In early May the Premier started to talk about the supposed stage two reforms in some detail, and he included that in his media statements. For the past three weeks he has created the impression publicly that he is delivering the stage one and stage two reforms in this bill.

As I have said on a number of occasions, that is not the case. The bill delivers for insurers and reduces the rights of injured people. It does not address the issue that Justice Spigelman spoke about, "Negligence: The Last Outpost of the Welfare State". The bill does not address the rorts in the system. It does not address the outrageous claims, nor will it. I note that as late as the last few days negotiations were continuing with interested parties, and a number of changes were made to the bill. There is no doubt that the insurance industry wanted to tighten it up even further. Then we were delivered of the new bill this week. It made a number of changes and, as I said, created two classes of people in New South Wales: those who could be a political embarrassment because they were suing the Government and everyone else. The bill also made changes to the loss of earnings. It made changes under lawyers' costs, lawyers' responsibilities, criminal acts, gratuitous damages, and exemplary punitive and aggravated damages. It did not do much else.

The Premier's press release—remembering that the human headline always covers everything with a press release because that is where the main message is—issued on Tuesday 28 May said that the final bill "starts the reform process in reducing the pressure on public liability insurance premiums". Those words are very carefully chosen. The Premier knows that the bill will not reduce insurance premiums; it will, supposedly, reduce the pressure on them. Further on in the press release he talks about the PricewaterhouseCoopers report and notes that, according to the report, there could be reductions. It is not that there will be reductions. There is not a mathematical formula that goes straight through to reducing premiums. There could be reductions to premiums in the order of X per cent—some per cent that has been dreamed up.

If one were to read the PricewaterhouseCoopers report, one would realise that there are a number of qualifications. I have put a yellow sticker on all the qualifications in the report, and there are quite a few as honourable members opposite can see. The Premier was forced by the *Australian Financial Review* to come clean in one instance and to say "this reform did not guarantee a reduction in spiralling insurance premiums". That is the reality. The Premier has been out there for months at a time creating the impression that the bill will save us all. It will not. It will not even deliver reduced insurance premiums. The Premier was finally forced by the *Australian Financial Review* to concede that on 23 May. The PricewaterhouseCoopers report is an interesting document. Obviously, it is a worthwhile analysis but as with every exercise done in this way PricewaterhouseCoopers has done the right thing and included qualifications, and there are quite a few of them, wherever appropriate.

The PricewaterhouseCoopers report does not say that insurance premiums will come down. It talks about a number of scenarios, and what is prudent in those scenarios. Of course, the report takes the middle scenario when talking about superimposed inflation. The fine print says, "Our inclination at this stage is for scenario (ii)", which says that the reforms cause a one-off reduction but will not arrest future superimposed inflation, which will continue at significant levels although perhaps lower than current levels. Later in the report it is acknowledged that no-one really knows whether the current premiums are priced at the right level. Various people will tell you different things. No-one knows whether premiums are still underpriced. No-one knows whether they are at the appropriate level for the market. We are yet to see. That is why we need to understand that, despite this centimetre of analysis, which is a good analysis, the qualifications are appropriate and they inform the public that it cannot expect to see significant changes to insurance premiums as a result of the bill.



The bill delivers for the insurance industry, which clearly sought further reassurance from this Government as to the viability of the insurance market, and it got it with this bill. There are a whole host of reasons why the insurance market is in turmoil, but I will not refer to them. The Carr Government made a number of significant and obvious amendments in the bill to tidy up the drafting, such as taking out the word "net" and inserting the word "gross" when talking about weekly earnings, and that has been related to three times the amount of average weekly earnings. The Government made a number of changes, and accepted most of them, at the request of the lawyers of New South Wales, but they are still looking for further changes. The most significant change, however, was the creation of two classes of citizens. This is a matter of great concern to us. We will seek to amend that situation in the upper House, and I expect that we will succeed.

Lawyers' costs and lawyers' responsibility have been amended to better appease the lawyers of New South Wales, but the people of New South Wales who are injured achieved no relief between the two bills. I have been advised that an amendment to the Legal Profession Act by proposed division 5C, "Costs in civil claims where no reasonable prospects of success", section 198J, may cause difficulties later when the bill is given effect. There will be increasing difficulty with those proposed sections if stage two reform is undertaken, but I will leave it to the staff of the Attorney General to talk to their advisers to determine whether those proposed sections are appropriate. In summary, the bill creates two classes of people in New South Wales: those injured by the Crown and second-class citizens injured in other circumstances. Labor's change to accommodate claims against the Crown is hypocritical and leaves 99.9 per cent of injured people out in the cold.

Labor's Civil Liability Bill will reduce insurers' payouts and increase insurers' profitability. In so doing Labor has sold out injured people. Labor's call for the Australian Competition and Consumer Council to put pressure on insurers is a clear admission that the bill fails to reduce premiums. But the Carr Government has already admitted publicly in certain places, one being the *Australian Financial Review* article I mentioned, that the bill would not reduce premiums. That is half the concern in the community. The bill, despite Premier Carr's rhetoric, does not protect local government, community groups, sporting clubs, small business, incorporated associations or good Samaritans from outrageous public liability claims.

The bill does not attack rorts in the system, nor does it introduce commonsense into the debate. Stage two reforms will be introduced some time later this year, whenever the Premier decides that it is politically opportune for him to deliver them. If the Carr Government were serious, it would deliver the stage two reforms this week so that we could have a sensible debate about an appropriate package to provide relief in public liability for the people of New South Wales both in terms of what we can do to reduce premiums and to rule out providing protection against outrageous claims.

The Government sent the Premier into this House this afternoon to say that the Opposition was gutting the bill. It is wrong to say that the Opposition is gutting this bill. That is part of the Premier's misinformation campaign designed to mislead the people of New South Wales. I suspect that the bill will be amended in the upper House to ensure that there is one class of citizen in New South Wales under this new legislation, not two classes—where more favourable treatment is given to anyone who can politically embarrass the Government. I know that my colleagues are looking forward to speaking on this bill and highlighting the great concern expressed by their constituents in relation to the way the Premier has sold out injured people and has simply played politics, and continues to play politics, with an issue of major concern: public liability both in terms of premiums and outrageous claims. This bill will not provide relief with respect to premiums.

**Mr IEMMA** (Lakemba—Minister for Public Works and Services, Minister for Sport and Recreation, and Minister Assisting the Premier on Citizenship) [8.20 p.m.]: I refer to a couple of points made by the honourable member for Vacluse—

**Mr Debnam:** Don't provoke.

**Mr IEMMA:** No, there will not be any provocation. The honourable member for Vacluse said that the purpose of this bill is, in some way, to add to the profitability or supposed super profits of the insurance industry. The honourable member for Vacluse needs to realise that the sector of the insurance industry about which we are talking is not one that has been experiencing super profits but, to the contrary, has been experiencing significant losses. I refer to the statistics released by the Australian Prudential Regulation Authority—the regulator for the insurance industry—that show billion dollar losses for the industry in the liability area over a number of years. The report released by the Australian Competition and Consumer Commission entitled "Insurance Industry Market Pricing Review" shows an industry in crisis with respect to its profitability. That has caused another problem for community and sporting organisations and individuals across the State: the withdrawal of insurance companies from liability insurance provision.

Not only are people experiencing higher premiums from the increasingly smaller number of insurance companies actually offering the product, but they are experiencing the withdrawal of liability insurance. As the honourable member for Vacluse said, there are a number of reasons for the instability in that sector of the industry. He did not say that a large part of the instability is being caused by billion dollar losses, which this legislation is designed to meet to provide some stability to the public liability sector of the industry. Without stability the cost of insurance will not be tackled, nor will the product be addressed. Insurance companies will not offer liability insurance and we will hear the same tale of woe that we have heard all week, which I will repeat in my capacity as Minister for Sport and Recreation.

The sport and recreation industry has been one of the hardest hit industries as a result of the public liability problem. Netball is one of the best examples of what will happen to sport and recreation in this State if this bill is not passed or if the amendments foreshadowed by the Opposition are accepted by the upper House. Public liability premiums for netball have increased 40 per cent in the past 12 months. Netball New South Wales used to negotiate three-year deals with no problem. These days it is a different story. It took the association six months to negotiate this year's 12-month deal. Netball New South Wales spent half the year negotiating a one-year deal and it was charged 40 per cent more—and that is just the start of its problems and the problems faced by many others.

Most netball clubs play on courts managed by their local council. The councils have also faced massive hikes in premiums for their sporting facilities, which, of course, they seek to pass on to organisations such as netball clubs. Councils try to ease the burden by introducing waivers in their rental agreements with the clubs. Associations such as Netball New South Wales and sports such as netball that use council facilities have to sign waivers. The waivers transfer the responsibility from council to clubs, so clubs are faced with the waivers, increased responsibility and higher premiums. They then face a financial crisis, as the chief executive officer of Netball New South Wales so eloquently outlined at the press conference last Monday in the Premier's office. This situation does not only affect netball; it affects all professional sports, such as rugby league. I am sure that the representatives of the Dragons and Steelers who are in the gallery would concur with that statement and with the efforts made by the Government on behalf of sporting groups to try to rein in the cost of public liability insurance.

**Mr Campbell:** They are strong supporters of netball as well.

**Mr IEMMA:** They certainly are.

**Mr Campbell:** The championships are at Berkley shortly.

**Mr IEMMA:** They are at Kogarah. At WIN there are strong supporters of basketball as well.

**Mr Campbell:** The Wollongong Hawks.

**Mr IEMMA:** That is right. Netball New South Wales strongly supports the Government's efforts to rein in the cost and to increase the availability of public liability insurance. Many gymnastic clubs have had to close their doors to young athletes as a result of big hikes in premiums. For some, public liability premiums have increased from \$100 to \$900, and some of the smaller clubs simply cannot afford that 800 per cent increase. Therefore, many young gymnasts may be forced to quit the sport. With respect to rugby league, the nursery of that great game in this State has been forced to increase its players' fees by 50 per cent due to public liability premiums. The premiums have increased by 300 per cent to \$800,000. The premiums for the ANZ golf tournament doubled from \$15,000 to \$30,000. Surf lifesaving on the Central Coast has been hit with a 24 per cent increase in premiums. In just 12 months insurance premiums for the Coffs Harbour Catholic Recreation and Sports Club have increased from \$34,000 to \$145,000. Small recreation businesses are losing the fight.

Oakdale Farm at Port Stephens—a great place to take the kids—was forced to withdraw pony rides after its public liability problems doubled. Countless kids have enjoyed pony rides in the past, but no more. At least Oakdale is still open. A lot of other businesses have not been so lucky. Many sports clubs face an uncertain future, unlike our friends in the gallery from Kogarah and Wollongong whose future is very secure. Waterskiing is also suffering. Numerous waterskiing events have been cancelled due to their inability to get a quote for insurance, or insurance premiums being so high they simply could not afford them. The Grafton bridge to bridge waterski event has been cancelled. The southern ski race at Moama and Echuca has been cancelled. The Sydney bridge to bridge—the biggest one-way waterski classic in the world—has been cancelled. The organiser, the New South Wales Water Ski Association Ltd, was quoted in excess of \$1 million for public liability insurance—a 40-year tradition gone, but hopefully not forever. Unfortunately, waterskiing is just one sport on a long list of activities affected by public liability. Toronto Boat Hire, Lake Macquarie, has been forced to withdraw its catamarans and canoes.

Skateline roller rink at Newcastle has closed because premiums are too high. Gundagai and District Sport and Recreation Club has also closed after being unable to obtain a quote for insurance. Going for a swim at the local pool is under threat. Premiums are too high or it is impossible to get a quote. Our future Olympic cyclists may soon have nowhere to train. The Race of the Future between Canberra and Goulburn has already been cancelled. Do honourable members remember when the biggest challenge about entering the local billycart race was getting the wheels off dad's lawn mower? That challenge is no more. You would be lucky to find a race to enter these days because of the cost of public liability insurance. The annual billycart derby at Parkes has already been cancelled. The wheelbarrow race at Forbes has been cancelled.

Such facilities and events, whether they be a training venue for future Olympians or the billycart derby at Parkes, must be saved. This bill is important because it seeks, above all, to protect our Australian way of life. The Government's public liability reforms will limit general damages to the limit that applies in the Health Care and Liability Act, which currently stands at \$350,000. It will also set maximum amounts for loss of earnings and earning capacity. Assumptions about future earning capacity will be based on realistic expectations. This is a commonsense move to curb a system that has lost all sense of proportion. It will help to avoid some of the ridiculous payouts we have read about in recent times. The 15 per cent threshold for non-economic loss or damages will help stamp out trivial claims.

The honourable member for Vaucluse said that the bill will not affect public liability costs and claims. He failed to say that the greatest damage in this regard is caused by the multitude of small claims, not the huge payouts running into the millions of dollars. Rather than fight small claims in court, even though they may be unmeritorious cases, insurance companies make a pragmatic decision to settle for an amount that is below the contingency cost of defending the matters in court. A graphic example of this was given to me by a recreational group whose insurance company has a provision to pay claims up to \$10,000. The insurance company will settle every claim that is lodged for small amounts of a few thousand dollars up to \$9,999. It would cost the company significantly more than \$10,000 to defend an unworthy case in court. The many cases for small claims have caused a significant amount of damage. The 15 per cent threshold for non-economic loss or damage will help stamp out those trivial claims and end the practice I have spoken about, thereby reducing the multitude of unmeritorious small claims.

Other deterrents in the bill to trivial claims are aimed squarely at the lawyers. This week Maree Knowles from the Agricultural Society brought to the attention of the Government the advertisements that are placed in newspapers by some lawyers in country New South Wales. The Government's package is aimed squarely at stopping such practices undertaken by ambulance chasers in country New South Wales. Barristers and solicitors will be prohibited from providing a legal service if they do not have any reasonable grounds for believing a case is more than likely to succeed. If they fail to do this, their actions may be deemed to be unsatisfactory professional conduct and forced to pay the costs. This initiative will help rid the system of spurious claims because lawyers will be less likely to gamble with their own money. The combination of these measures—capped payouts, realistic guidelines to calculate loss of earnings and future earnings and tougher rules for lawyers—will help reduce the amount of money that is paid out in public liability claims. The measures will help reduce premiums, a fact the honourable member for Vaucluse conveniently ignored.

Most importantly, if insurance companies play their part—and that is the basis of the actuarial advice which the Premier tabled earlier this week—we will see a reduction in premiums. The Opposition proposed amendments will fail to provide the stability the insurance industry is looking for. They will lead to a spike in claims of about \$140 million. That is the figure that was presented to the Parliament today. It would take many years to pay out that spike in claims. We will not see a reduction in premiums and insurance companies will not be able to offer a product of public liability insurance. That is what happened in health with the United Medical Protection [UMP] crisis when, after an announcement was made of a cap on payouts and the removal of retrospectivity, the spike in claims was of the order of \$140 million. That sent UMP into crisis, and the measures introduced did not rectify the problem. That is why we will oppose the Opposition's amendments. The Opposition has sold out to the plaintiff lawyers. The Opposition amendments will not provide stability in the industry or reduce premiums. If the Opposition amendments are accepted, the crisis will continue. I commend the bill to the House.

**Mr ACTING-SPEAKER (Mr Lynch):** I acknowledge the presence in the gallery of board members of the Illawarra Steelers and the St George Dragons rugby league clubs, who are in attendance this evening for an appreciation dinner as guests of the honourable member for Rockdale and the honourable member for Wollongong.

**Mr SOURIS** (Upper Hunter—Leader of the National Party) [8.35 p.m.]: I am pleased to join you, Mr Acting-Speaker, in acknowledging the presence of the board members of the Dragons and the Steelers. I note

that they are being hosted by the very popular members for the electorates of Wollongong and Rockdale. Whilst listening to the Minister for Sport and Recreation speaking, and knowing that members of the rugby league fraternity were in the gallery, I could not help thinking that if the St George-Illawarra Dragons were playing for a government-owned team, any potential public liability for personal injury would arise as a claim against the Crown and would be extended to 1 September. Under the draconian private arrangements, any claims would apply to 20 March. I am delighted to have had the opportunity to make that point.

The scourge of United States-style litigation has just about reached saturation level in our society. Each day brings a new story of what seems to be lunacy, be it a youth injured while vandalising State Rail trains and suing the Government or a drunk person injured while diving into a canal and suing a nearby homeowner. Such cases go against the traditional Australian ethos of taking responsibility for one's own actions and basic commonsense. It has reached the stage where urgent action is required to fix a system that is crumbling. That is not to say that the genuinely seriously injured should not be looked after and adequately and fairly compensated. Action is required now because the fabric of country New South Wales is under threat by the public liability crisis facing community groups, businesses and government instrumentalities. It is severely impacting on the day-to-day lives of millions of New South Wales residents.

In country areas events that have been part of communities for decades are being cancelled and businesses are closing due to soaring premiums. A welder recently contacted my office through a National Party member of Parliament to ask what he could do about his business. He had been unable to renew his public liability insurance and had been advised not to go to work the following Monday. I am aware of numerous other similar examples. I understand that GIO Insurance is culling all community social, sporting and charity organisations at the time of their policy renewals. I am disappointed that such policies are being automatically culled as renewals fall due. This is the front line of the public liability insurance crisis: real people with real problems. The New South Wales Labor Government has been well aware of this issue since the collapse of HHH Insurance, which left 79,000 insurance policies for townhouses, supermarkets, beaches and other public places without coverage.

More than a year down the track, we now have the so-called first stage of the Government's reforms. Labor's inaction has allowed this issue to explode into a major crisis. Stage two, we are told, will come at a later date. There is no excuse for the Premier not turning the full resources of government to this task. This issue, along with the crisis in medical indemnity insurance and home owners warranty insurance, is having a major impact each day on the lives of those living in rural and regional New South Wales. I cite, for example, the Scone horse festival and the Mudgee Christmas festival at a local level in my electorate.

The bill does not protect community groups, local government, sporting groups and incorporated associations or good Samaritans. I note that just a few days ago two more public liability claims involving drivers have been lodged against Evans Shire Council. This comes just months after a woman successfully sued the council and its road contractor for more than \$16 million. Last week Kyogle Shire Council resigned as the managing authority of some 25 Crown reserves. The council resigned as manager of a range of showground, caravan park, public reserve, community centre and community hall trusts because of concerns over public liability. There are 172 councils in New South Wales, and many of those councils have control over several Crown reserve trusts covering a range of activities in their local area. This bill also does not deal with outrageous claims. We have to question whether the Premier's thirst for politicising this issue is so insatiable that he is happy for the issue to keep running in the lead-up to the election. The Premier should devote every resource of his Government to getting stage two before the Parliament.

Another issue of concern to me is how the Premier can talk of the need for reform when his Government is directly profiting from soaring public liability insurance premiums. This Government collects 10 per cent of each premium in stamp duty calculated on top of the GST-inclusive value. In the year 2000 this amounted to \$40 million in public liability stamp duty, not to mention the stamp duty the Government charges on professional indemnity insurance. This is a great demonstration of the hypocrisy and shallowness of the Government. The Premier effectively has his hand in the back pocket of every business, charity and community group paying their public liability insurance premium.

If the Government were truly serious about this issue, its first step would be to review this tax burden, just as the Tasmanian Government did last week. Lack of equity seems to be something that has penetrated this Government to its core. The Coalition will seek to amend the legislation before the Parliament to ensure every citizen is treated equally under this law. The bill creates two classes of people: those injured by the Crown, and a lesser class of citizens injured in other circumstances. The retrospectivity clause of the bill allows for people

who notified the Crown before 20 March of a claim against the Crown to still bring proceedings under existing law provided they file by 1 September or once their injuries have stabilised. However, equal justice is not afforded to anyone else with a claim against an insurance company. The Coalition will seek to amend the bill so that all claimants who have notified of a claim by 20 March 2002 and have commenced proceedings by 1 September 2002 will be covered under the current public liability scheme.

In a highly qualified report, PricewaterhouseCoopers actuaries point to possible reductions in insurance premiums of about 12 per cent on average as a result of these reforms. Rises of 700 per cent in premium costs have not been uncommon during this crisis, so a potential reduction of 12 per cent will not make coverage significantly more affordable for businesses and groups. The report states it would be optimistic to assume that an estimated 14 per cent reduction in claims costs due to the proposed changes will be permanent. In his second reading speech the Premier stated that "Some people have suggested there is no real evidence that these reforms will have any impact on insurance premiums. However, I have the evidence." The Premier then played his usual game of blaming the Federal Government for his woes and failures. The Coalition's proposed amendment does not affect the forecast 12 per cent reduction, but simply reduces the windfall gain to insurers.

I note some other key elements of the bill. Clause 9 of the bill, relating to awards of personal injury damages, excludes an award where the fault concerns an intentional act done with intent to cause injury or death, or is sexual assault or other sexual misconduct. This means people seriously injured by criminal activity will not have their award limited by this bill. Clause 2 limits damages, past economic loss, future economic loss or the loss of expectation of financial support to no greater than three times average weekly earnings. Clause 16 establishes a threshold of \$350,000 for damages for noneconomic loss. Clause 21 relates to actions for the award of personal injury damages where the fault that caused the injury or death concerned is negligence. A court cannot award exemplary or punitive damages. Clause 198 (d) sets maximum costs for claims of up to \$100,000 as the greater of \$10,000 or 20 per cent of the amount recovered by the plaintiff. The provision has been extended to defendant lawyer's costs, where it will be the greater of \$10,000 or 20 per cent of the amount claimed by the plaintiff.

I note the Government has now clarified that the cap applies to solicitors' and barristers' fees and the fees of their agents or employees and does not apply to any other disbursements such as medical reports. Urgent action is required, and I believe the stage two reforms should be fast-tracked into this Parliament in order to better protect our communities, particularly those in rural and regional New South Wales. As members of Parliament we have a duty to nimbly respond to this evolving crisis and implement reforms that will make a real difference. People want action that can be measured, not sickly tailored rhetoric.

**Miss BURTON** (Kogarah) [8.45 p.m.]: The Civil Liability Bill starts the reform process to reduce the pressure on public liability insurance premiums. The bill will limit general damages and set maximum damages for loss of earnings and earning capacity. However, the New South Wales Government cannot solve the public liability problem alone. Responsibility for regulating the insurance industry falls squarely in the lap of the Prime Minister and the Commonwealth Government. The Premier has written to the Prime Minister, forwarding a copy of a report by PricewaterhouseCoopers on the Government's reforms. It calculates that our reforms could deliver a 17.5 per cent reduction in the cost of personal injury claims and a 14 per cent reduction in the cost of public liability claims.

According to the PricewaterhouseCoopers report, there could be reductions to premiums in the order of 12 per cent. The Premier has said that the Commonwealth must direct the Australian Competition and Consumer Commission to begin immediate price surveillance on premiums for public liability insurance. The reforms that the Government is introducing will go through in two stages. The stage one reforms will deal with limitations on damages and lawyers' costs, with the stage two reforms dealing with the more complex issues relating to changing the relevant tests for negligence—for example, making intoxicated plaintiffs take greater responsibility for themselves and making risk warnings a good defence for risky activities.

I now refer to some of the measures covered by the bill. They include setting a maximum for general damages awards at \$350,000; setting maximum damages for loss of earnings and earning capacity at three times average weekly earnings, now \$312 per week; setting a threshold of 15 per cent of the worst case for noneconomic loss; requiring courts to discount damages for economic loss by 5 per cent; stopping interest on damages for noneconomic loss and gratuitous care; stopping courts awarding exemplary or punitive damages; providing for structured settlements by consent; limiting costs recoverable by a lawyer in smaller claims; making it professional misconduct for lawyers to act where there are no reasonable grounds for believing a claim would succeed; and making lawyers liable to pay the defendant's costs where no reasonable grounds exist for believing a claim would succeed.

I would like to draw the attention of the House to the regulation of legal costs, a very important aspect of the bill. Much attention has been focused on the manner in which the bill regulates the costs of lawyers. Legal costs are only part of the problem of rising insurance premiums. There are many other factors. However, there is significant evidence that legal costs are a substantial component of small claims. The bill's reforms of the way in which we deal with legal costs will promote a system whereby legal costs are in proportion to the size of the claim. The goal is to encourage lawyers to behave responsibly. The bill provides for a cap on plaintiffs' lawyers' costs of \$10,000, or 20 per cent of the amount claimed, whichever is more. The bill also provides for a cap on defendants' costs, based on the amount claimed by the plaintiff.

The Government recognises that even a small matter can be complex, and the bill will allow extra costs to be recovered by a solicitor in small matters. Additional costs can be agreed between the solicitor and a plaintiff and defendant so long as a costs agreement is in place. The bill includes a regulation-making power so that additional costs can be controlled by the Government, if necessary. The cap is a maximum. The Government does not expect the maximum to become the standard fee. The fee charged will reflect the cost of running the matter. In many cases a lower fee should be charged.

The bill will provide plaintiffs with an incentive to settle their claims by allowing a court to award indemnity costs from the day an offer to settle is refused by a plaintiff if the plaintiff eventually recovers less than the amount the defendant offers. This provision works both ways. If a defendant refuses an offer made by the plaintiff and the plaintiff recovers more than the offer, the court can order the plaintiff's costs from then on to be met by the defendant. The bill will stop solicitors and barristers from providing legal services in a matter without reasonable prospects of success. A solicitor or barrister who commences a claim in court will have to certify that a claim or defence has reasonable prospects of success when filing the claim.

There are powerful sanctions against solicitors and barristers who do not comply with these provisions. First, the provision of legal services without reasonable prospects of success is capable of constituting professional misconduct. Second, a costs order can be made against a solicitor or barrister who acts in a case without reasonable prospects of success. A costs order will operate against the solicitor or barrister personally. This will provide a powerful disincentive to lawyers to take on cases without merit that have no reasonable prospects of success. The contents of this bill are vital to arrest the spiralling problems with public liability. As the Premier has made known, the Government is demanding that the Opposition be reasonable and support this very important legislation in its entirety so that our local sporting facilities, our councils and our way of life can be maintained. I commend the bill.

**Mr O'FARRELL** (Ku-ring-gai) [8.52 p.m.]: Yesterday, before the contents of this bill were unveiled, I became increasingly alarmed about it and its effects. Alarm bells first sounded when Local Government Association President, Councillor Peter Woods, warned the Liberal and National parties to support this legislation. Councillor Woods' record of public service in pursuit of self-aggrandisement, of course, is legendary. My scepticism grew when the Premier stood in question time and referred to an actuarial report that supported the proposed legislation. I recall his brandishing of similar reports on previous occasions in support of legislation and the ultimate failure of those reports to live up to expectation.

But my natural cynicism about events in this place and the audacity of the Labor Government reached new heights with the Premier's claims that these changes would lead to reductions in premiums. Honourable members should forget my recollection on this point and instead ask the millions of car owners across New South Wales who believed similar statements from the Premier and Minister Della Bosca in 1999 about the cost of future green slips and who have since faced ever-increasing annual premiums.

This legislation is classic Bob Carr. Like the great illusionists and conjurers of yesteryear the Premier has a characteristic show-stopping act in his repertoire. They always involve the same steps: wait for a popular crisis to occur; surf popular media sentiment and grandly promise relief; propose decisive legislation; and seek to shift responsibility to the Federal Government so that, when the measure is seen to have missed its mark, the Federal Government, and not the State Government, is viewed at fault. On each occasion these show-stopping acts lead to a short epiphany for the people of New South Wales but, like the history of the great illusionists and conjurers, at the end of the day they represent nothing.

The shame is that the Premier and his Government have been able to get away with this for so long and, as a consequence, have fundamentally undermined the rights and entitlements of those who legitimately seek recompense for the negligent acts of others. I appreciate the public liability crisis in this State. I know from work in my own electorate of the problems facing individuals and groups in seeking to obtain coverage and the high

cost of premiums they face if they can successfully obtain that coverage. For instance, last month I attended a public meeting of the St Ives Residents Action Group—which, I might add, protested about the Carr Government's overdevelopment policies—for which the cost of public liability premium exceeded the group's financial reserves. I know of similar problems faced by organisations like Friends of Ku-ring-gai Environment Inc. [FOKE], local scouts groups and charitable organisations, and the impact this crisis is having on them and the wider community they serve.

I know of the anxiety of, and costs faced by, business operators. Like them I want real, substantial and lasting reform to reduce costs so as to permit these businesses, community groups and individuals to get on with their commerce, community activities and lives. No-one denies the need for reform, but genuine reform is required, not reform based upon political calculation. Yet this legislation represents the latter. For instance, I agree with my leader that the delay to the second tranche of reforms, promised for the spring session of Parliament, has been deliberate so that the Labor Party can try to reap maximum political benefit from this crisis as we head towards next year's election.

The community needs and deserves leadership, principle and certainty on this matter but I fear it is being offered political calculation, expediency and uncertainty. Reforms to public liability should be based upon a sound understanding of the problems and should not be built upon almost hysterical media reports. The latter is best highlighted by the breathless announcement of the mayor of Sutherland of a dramatic increase in public liability claims in her shire. However, she failed to tell the whole story, which is that the increased level of claims is similar to the level of claims of 10 years ago. Ms Sonda might be more successful if she were honest with her community.

Given the sources of a number of the extreme examples of the public liability crisis trotted out in the media of late, one could be forgiven for thinking that the Premier's media secretary, Walt Secord, has secured appointment as chief of staff, public liability, to Sydney's media. As well as Ms Sonda, the Australian Labor Party candidate for the State seat of Hornsby popped up, and Labor mayors across the city have been quick to join the fray—all eagerly support the Premier's line.

I share community bewilderment, disgust and anger at the antics of some claimants and lawyers who have misused existing laws. I despair at the increasingly litigious nature of many, but by no means all, in our community. I recognise the costs that have arisen and which we all have to bear. However, I also understand that legitimate claims for compensation exist and will continue to arise in future. Those involved in the tragedy of the Glenbrook train crash clearly are not rorters; they have a legitimate claim against the Government for negligence and appropriate payments are warranted. I suppose my concern is that the Premier sees this in black and white. He believes that there are those who are abusing the system and those who support the system. I do not believe it is that clear. I think there are those who are abusing the system, there are those who as taxpayers support the system and who may never have any claim upon the system, and there are, of course, those who have legitimate claims upon the system for acts that involve them and for which they are due recompense.

I am reminded of Kenneth Arrow, the father of the theory of general equilibrium, who said that "vast ills follow a belief in certainty". That is my concern about the Premier. He projects certainty where no certainty exists. He does not differentiate between rorting and rightness and he will lead us into the path of ill will. I regret the changes made by the former Fahey Government and former Attorney General John Hannaford that allowed ambulance-chasing type advertisements from a small section of the legal fraternity, and I welcomed the current Premier's earlier announcement that steps would be taken to end such advertisements. But unfortunately in this legislation the Premier has jettisoned his own example of tackling a particular problem with specific, targeted action against those who offend.

Instead of a broad-brush approach that assumes everyone is misusing the system, this legislation should seek to crack down on those who try to abuse the existing public liability system, be they claimants or lawyers. It fails to differentiate between those genuinely in need and those who are rorters, and it is this failure that causes me concern. In communities across New South Wales people who have legitimate claims to compensation for the impact of the grossly negligent actions of others will be disadvantaged by the notification provisions of this legislation. Most of those will be people who are less well off than those who serve in this place, less familiar with the law, and less able to avail themselves of existing avenues of recourse for their legitimate problems. By agreeing to this legislation, honourable members are making this Parliament turn its back on those whom I thought government was meant to look after.

One of my predecessors as General Secretary of the New South Wales Liberal Party would often use an analogy of a three-legged stool. In this case my concern is that in tackling the public liability crisis the State

Government has cut back two legs of the stool, namely, individuals' rights to claim in legitimate circumstances and lawyers' ability to represent those people in legitimate circumstances. The State Government has also ignored the third leg, the insurance companies who provide public liability cover. At this point I should also confess to scepticism about large corporations that for years have campaigned for a lessening of government interference and regulation in their industry but are now suddenly urging greater government involvement and guarantees. Even as someone who believes in the free market, I find their actions beyond belief—not surprising, but just beyond belief.

The Government has a clear duty to act in the public interest to protect citizens in this current public liability crisis, and it should do so without fear or favour. To again use the three-legged stool analogy, I fail to understand how exempting insurers from any obligation will improve the current crisis. A significant part of the crisis relates to the affordability of premiums. This legislation offers no guarantees about the cost of premiums decreasing. During question time today the Premier, with an attempt at great play, quoted the editorial in today's *Australian Financial Review*. As usual, he quoted only part of what has been written. In fact, the editorial begins by expressing concern about the role of insurance companies, and the entire editorial was an examination of what was being done to try to reduce the cost of insurance premiums as part of the current reform process.

The editorial makes the point that the onus is on the insurance industry to prove that the reforms that are being offered will lower the cost of premiums for individuals, community groups and businesses who are facing steeply increased premium costs as we speak. The editorial, which was quoted in part by the Premier so glowingly today, makes the point that to date the insurance industry has been unable to make any such commitment or provide any guarantee. Despite that, yesterday in this House the Premier would have had members believe that these reforms should produce premium reductions of up to 12.5 per cent. The insurance industry will not confess to that. The insurance industry will not put its hand on its heart and say, "Bob's right, you will be better off to the tune of 12.5 per cent." My concern is that, despite all the words, the rhetoric and the media stunts, there is still no certainty that insurance premiums will be reduced.

To confirm my cynicism about actuarial reports, I notice a lobby group is trotting around this Parliament. The lobby group has produced an actuarial report suggesting that the insurance industry will reap significant rewards and profits as a result of these changes. The cries and pleas of the insurance industry that it is about to face a financial crisis are simply untrue. That proves the point that duelling actuarial reports that are produced at the last minute are no basis for good legislation and are not the way to tackle reform in an area as complex as public liability.

**Mr Debus:** But you now want us to rush stage two.

**Mr O'FARRELL:** It is argued that logic dictates that, following the other measures, the cost of premiums must decrease in the future. That was the same argument advanced by the Government about green slips, yet the so-called logical outcome has not eventuated. Because I believe the third leg of the stool needs to be dealt with, I support the Opposition's amendment. I respond happily to the Attorney General's interjection by referring to the two classes of citizens that this legislation will create. Ironically, by being seen to respond to an effective campaign run by Ros Everett, a lawyer representing the Glenbrook victims and a person to whom I confess I have spoken about this matter, the Government's changes in this legislation will create inequality. A retrospectivity clause will provide favourable treatment for those who are suing the Crown and deny equal justice to anyone else who has a claim against an insurance company. Labor says on the one hand that it is fine for the taxpayer to foot the bill for claims against the Government and its agencies, but it protects insurance companies against claims made by other people with similar or identical injuries.

I acknowledge the existing crisis and the need for relief. While hoping that the bill may succeed, I believe that it is neither well thought through nor the comprehensive reform package that is required to solve the current public liability problems. I restate my concern that the bill treats rorters and righteous people alike. I remain extremely concerned that the bill will not provide the relief from the high costs of premiums that everybody is seeking. I remain convinced that this bill has been born out of the desire to be seen to be doing something, rather than out of a genuine effort to bring about reform.

**Mr CAMPBELL (Keira)** [9.07 p.m.]: On behalf of the community I represent and many people to whom I have spoken about this matter, I have absolutely no hesitation and no problem in supporting this bill. Time and time again representatives of small community service organisations and small community groups have come to my electorate office to ask what the Government is going to do about the public liability issue. They ask me why the Government is not doing something and they point out that the problem is not that they cannot afford the premiums; the problem is that insurance companies are simply not offering them policies.



A gentleman in the Keira electorate manufactures fibreglass canoes and sells them to adventure tourism organisations. His business is winding back because adventure tourism businesses are unable to obtain public liability insurance. They either cannot afford the premiums or they cannot obtain insurance at all and, as a result, his livelihood has diminished. With a sense of propriety, I mention that the gentleman lives in the street I live in, so he is a neighbour as well as a small business person. Another small business that operates in my electorate provides low-level carnival rides at school fetes and junior soccer club presentations. The firm has been unable to obtain public liability insurance and business is going out the door backwards. The owner is a gentleman in his seventies who has operated the business for 40 years. All his superannuation and financial resources have been invested in the business and its equipment. The likelihood of being able to sell the business in the present circumstances is extremely doubtful.

Time and time again such matters have been discussed with me in my electorate office. There is widespread community demand for changes to be made to public liability insurance. One only has to talk to people at a parents and citizens association meeting, to members of a local Australian Labor Party branch, as I have on many occasions, or to people who attend a local council's neighbourhood committee to be made aware of community resentment against break-and-enter offenders who are injured during the course of committing crime and who make public liability insurance claims. People find that absolutely bizarre, and that is the type of problem that this legislation properly and clearly seeks to address.

The main purpose of the bill is to address the public liability insurance crisis by introducing stage one of tort law reforms. Having listened to some Opposition members who have participated in this debate, I am beginning to wonder where they have been lately. The honourable member for Vacluse and the honourable member for Ku-ring-gai vilified the Premier for adopting a strong public leadership stance on this issue, and they did so without offering any alternative proposals for reform. The strong sense of vilification in their speeches was embarrassing, but not at all surprising from members of an Opposition that is bereft of any policy position or alternative proposals. Opposition members instead come whingeing and whining into this Chamber.

**Mr Debus:** I thought it was a dreadful speech.

**Mr CAMPBELL:** Both speeches were dreadful, as the Attorney General points out. A way of addressing the issues associated with this debate is to refer to a number of questions that people may wish to ask. The first question may be why the operation of the bill will be made retrospective to 20 March. Possible reasons are that retrospectivity is essential to prevent a rush of claims being made by people who are trying to avoid the new laws. A rush of claims may have an adverse impact on premiums. The date of 20 March was chosen because it was the date on which the Premier announced the changes. The Government believes that the limits on damages are fair and necessary. Wherever a line is drawn, some people will be adversely affected. Those factors may provide some of the reasons why the bill has been made retrospective to 20 March.

Another question may be whether the bill will give insurers windfall gains. In responding to such a question, I argue that the bill cannot force insurers to pass on cost savings to consumers. The bill will instead put in place the necessary reforms to enable premium prices to fall. The Commonwealth Government must use its regulatory powers to ensure that premiums fall and that insurers do not make windfall gains from these reforms. The Premier has again called on the Prime Minister to make this happen, and I reiterate that call in this House tonight. Responsibility rests with the Commonwealth Government to use its regulatory powers in respect of premiums and the windfall gains that might result from this legislation.

Another question that might be asked is whether there is any evidence that the bill will lead to premium reductions. The answer is "Yes". When he introduced the bill the Premier tabled in this place a copy of actuarial advice from PricewaterhouseCoopers. Its best estimate of the impact of the reforms is that there will be a 17.5 per cent reduction in the cost of personal injury claims. That should allow a reduction of some 12 per cent in public liability insurance premiums. Another question that one might ask is: Will the bill limit damages arising from criminal offences? The bill excludes injuries arising from acts done with the intention of causing injury or death and sexual assaults. That means that people who have been victims of a physical assault will not be affected by the limits in the bill. However, the perpetrators may indeed be affected.

Another question that I have been asked many times is: Will the bill prevent small claims being filed? The bill does not prevent such claims being filed and it does not prevent any claimant from pursuing a claim for economic loss—for example, medical expenses or lost wages—no matter how small. In respect of smaller claims the bill will have a significant impact on damages for non-economic loss—for example, pain and suffering—due to the severity threshold. In such claims these damages make up a significant part of awards.

Some people with minor or temporary injuries will not be able to demonstrate that they have suffered sufficient non-economic loss to get over the threshold for these damages, although that does not prevent them from pursuing a claim for economic loss. It is important to note that people can claim for the cost of medical treatment and the impact of lost wages. However, the bill will have an impact on someone who trips, suffers minor injury and then attempts to secure an exorbitant award for pain and suffering.

I am also often asked: Are damages being capped at \$350,000? The answer is no. Only general damages for non-economic loss such as pain and suffering will be capped at \$350,000. Damages for lost wages will also be capped at three times average weekly earnings per week. The bill will not cap damages for medical expenses and care costs. An important question following an accident is: How will medical expenses and future care costs be affected? The bill does not cap this type of economic loss. However, the size of larger lump sum economic loss awards will be affected by the new discount rate of 5 per cent. The discount rate at common law is currently 3 per cent. Courts discount lump sum awards to recognise the real value to a plaintiff of receiving a lump sum. The discount ensures that returns from the investment of the lump sum are accounted for. The new rate is a fair reflection of the value of lump sums and is equivalent to the rates applying to health care claims and motor accidents.

I conclude this question-and-answer session with the question: Why has the cap of three times average weekly earnings been chosen for lost earnings? This cap is consistent with the reforms recently announced by the Queensland Government, so we are delivering some consistency around the country. Very high income earners are in a position to self-insure against the risk of injury, and imposing a fair cap will ensure that resources in the system are not swallowed by the claims of the very wealthy.

Once we work through some questions and secure answers, we see that those issues of concern have been dealt with fairly and appropriately in the bill introduced by the Government, under the strong leadership of the Premier. I note that an exposure draft of this bill was released to Parliament a few weeks ago. Following discussion, debate and negotiation some aspects of that draft were changed, which is entirely appropriate in a significant area such as this. We should acknowledge the fact that many community organisations were prepared to offer suggestions and, in its usual open-minded way, the State Labor leadership—the Premier and his Ministers—listened to them and made amendments.

This legislation is about trying to put in place the first half of a tranche of reforms, the balance of which will come later in the year, designed to restore sanity in the community and to bring some stability to volunteering and the community way of life. Let us make no mistake: this problem stems from the mismanagement of the insurance industry in this country by the big end of town. Those who served on the boards of HIH and FAI drove those businesses into the ground and, in the process, forced down premiums to unsustainable levels. Other insurers, needing to compete, followed their lead. The people who ran those businesses caused this problem in the community and the Labor Government has done the hard slog, taken the hard decisions and introduced amended legislation that will restore some sense of stability and normality. We will make sure that the kids can ride on swings at the school fete, that someone can hire a canoe and enjoy an adventure weekend and that volunteer surf lifesavers can be confident that they will not lose their homes as a result of claims against them.

At the same time, the Government is ensuring that people who suffer injury and make a legitimate claim can access proper medical treatment and receive proper recompense for lost income. People who suffer serious injury will also receive recompense for pain and suffering. On balance, this bill represents the first stage in the Government's decent attempt to do the right thing, stabilise our community and protect our way of life. For those reasons I have little doubt that the majority of people in my electorate will support this approach. Indeed, many of those to whom I have spoken are looking for the sort of leadership that the Government has shown in this bill, which I commend to the House.

**Mr MERTON** (Baulkham Hills) [9.17 p.m.]: The Opposition does not oppose the Civil Liability Bill. Like members of the community, business people and other average Australians, we realise that something must be done about the enormous drain caused by unnecessary claims and inflated awards. It has reached a stage where many businesses are unable to pay public liability premiums. Countless community and volunteer groups cannot obtain public liability cover for important events held in country towns, such as Mudgee, and in Sydney. Unless the public liability system is reformed, the Australian way of life as we know it—community activities held for popular benefit and events that young people have taken for granted as a part of growing up in Australia—will be halted abruptly because insurance is not available. Organisers are obviously not prepared to arrange such activities unless they can obtain the requisite public liability insurance.

There are several reasons for this state of affairs. Lawyers and judges are often blamed, as are those accused of being greedy for making claims. However, at the end of the day the Opposition submits that it is due to a combination of circumstances and situations in the community. I am the first to admit that this problem began in 1994. It probably began a lot earlier than that, but it has been accentuated since lawyers have been able to advertise. As a legal practitioner of some 30-odd years I recall that when I first started practice I was not game to apply to put my name in heavy print in the *Yellow Pages* because I thought I would be in strife with the Law Society. But those days have long passed. The law now permits lawyers to advertise. It is now perfectly legal within the ambit of the law, which was changed in 1994, for lawyers to advertise. Some advertisements that we see in the *Yellow Pages* are aggressive to say the least, but lawyers are entitled to do that.

**Mr Debus:** What about on the roof of a lift in a hospital?

**Mr MERTON:** I have been in an elevator in a hospital. Recently my mother spent some time in a hospital. Whenever I went to visit her I was greeted by the same advertisement in the elevator that read, "Come and see us if you have an accident claim." I did not avail myself of that opportunity. I am not about lawyer bashing; lawyers are entitled to advertise their services and, when they do that, they are not breaking the law.

**Mr ACTING-SPEAKER (Mr Lynch):** Order! I call those on the Opposition benches to order. Hansard is having difficulty hearing because of their conversation.

**Mr MERTON:** I do not think we can blame lawyers for advertising. This problem has arisen because of a combination of factors. People all over the world have become more litigious. They have been taught to believe that if something goes wrong there is always someone they can blame. That is not necessarily so of Australians. Many Australians who have endured hardship, injury and misfortune, have simply shrugged their shoulders and said, "Tomorrow is another day", and they come back smiling. But those days have gone. Insurance companies are not lily white. They cannot hold their heads high and say, "We have not been faced with enormous payouts and reinsurance problems as a result of September 11."

The worldwide disaster on September 11 affected not only Americans; it affected the entire world psychologically, physically and morally. In the aftermath of that disaster many people had to contribute financially because of insurance claims. The ripples caused by the September 11 disaster were felt in the Australian insurance industry as many insurance companies in Australia relied on overseas companies for reinsurance. The *Australian Financial Review* referred to this issue fairly well when it stated:

They have also pointed to the increase in reinsurance costs, the industry's lower returns on investment, the cyclical nature of the market, new capital adequacy requirements that have been imposed on insurers, the collapse of HIH and the economic impact of the September 11 terror attacks.

So there is a combination of factors. As I said earlier, the Opposition does not oppose the Civil Liability Bill. Something must be done so that we can continue to function as a community and enjoy traditional community activities. Probably even more important is the fact that many businesses in the community are finding it difficult to meet and pay insurance bills as they fall due. As a member of the Opposition, I am not convinced that this legislation will result in an immediate reduction in insurance premiums. The Government's record in relation to green slips is fairly poor. However, the Opposition is prepared to give it the benefit of the doubt. We are prepared to go along with this legislation so that insurance premiums are reduced and people are able to continue their community and business activities.

Certain aspects of this legislation concern the Opposition. As other speakers in the debate have pointed out, a maximum of \$350,000 is payable for pain and suffering. Effectively, the legislation will be backdated to 20 March this year, which the Opposition does not necessarily believe to be a good idea. What has happened as a result of this legislation? People who have claims against the Government—for example, those who were involved in the tragic Glenbrook rail incident—will continue with those claims. Those who have claims against private defendants and who did not file their papers by 20 March will have to rely on the new rules, which in many instances will reduce the amount to which they are entitled.

The Opposition suggests that it is unreasonable to have two classes of individuals. Those who are fortunate enough to be suing the Government can continue with their claims provided they notify authorities of their claims and provided they file their statements of claim by 1 September. Those people who are injured by non-government entities will not be able to proceed with their claims if they were not filed by 20 March. They will be forced to comply with the new rules, even though their injuries were sustained prior to the introduction

of this legislation. Whether they have a claim will depend on the nature and extent of their injuries. I do not agree with the statement made earlier by the Premier. In my view, this legislation will reduce the amount of compensation that is payable. People are not entitled to anything for pain and suffering if their injuries do not comply with the provisions of this legislation. That causes me some concern. Nevertheless, the Opposition does not oppose this legislation. We believe that something must be done to rectify these problems.

I believe that the proposal for written notification for claims to avoid the retrospective provisions in this bill is unrealistic. Many people would have consulted lawyers, but in some circumstances lawyers need time to examine each case. Lawyers have to rely on medical reports. It is not until such time as those medical reports are received that a lawyer can say their clients may or may not have a case. When one is dealing with medical issues that requires specialist consultations it can take up to three or four months to obtain an appointment. Often it is not possible to formulate claims quickly. Many people who suffered injuries prior to 20 March will not be able to make claims. A lawyer will not be able to put a case together and, therefore, will not be able to determine whether someone has a valid claim. [*Extension of time agreed to.*]

The situation there is that unless the lawyer actually notifies the defendant prior to 20 March, he does not have the benefit of being able to claim in respect of a government defendant. This in itself has the potential to cause additional problems in so far as it could lead to a number of speculative claims against lawyers who did not issue claims before 20 March. This will simply be shifting liability from the insurer for the actual tortfeasor to another insurer. I am suggesting that retrospectivity simply turns this law into a lottery in that those who had a claim in the court before 20 March win and those who did not, lose.

Retrospectivity penalises those parties who comply with the requirements of the various court rules in not commencing court proceedings until the claim is virtually ready for hearing. There are many people who might have even seen a lawyer, but unless the lawyer gave notification of the claim by 20 March they will not be able to proceed under the old rules, even though that was the law that existed at the time the injury was sustained. There are some concerns about the costs provisions, particularly in claims that do not exceed \$100,000. The maximum cost for a legal service provided to a party is 20 per cent of the amount recovered or \$10,000, whichever is the greater. That in itself has problems.

If a case lasts four or five days, with an expected verdict of perhaps \$80,000 and recovered costs \$16,000, the costs recovered would be insufficient to meet the costs of the following week. If a case commenced on a Monday and it became obvious by the Friday afternoon that the plaintiff was going to receive \$80,000 or \$100,000 when the case concluded on the following Monday, the whole of the 20 per cent of the anticipated verdict would be spent. What happens then under this legislation? The balance of the legal costs would be taken out of the verdict moneys on a solicitor and client basis. That, of course, is the only solution. On the Friday afternoon a defendant could well say, "The case has gone for a week. We believe it will go for the rest of next week". What does the plaintiff do then? Plaintiffs are very vulnerable at that stage. They could well be compromised and have to accept a lesser amount from the defendant rather than carry the costs out of the verdict they would obtain the following week.

Perhaps the Attorney General could clarify the costs provision in section 198D. Should an appeal eventuate after a hearing—or if there is an arbitration, after a re-hearing from an arbitration or an appeal either to the Court of Appeal or even further—what is the situation as far as costs are concerned? These are grave concerns that the Opposition has related to the retrospective nature of the claims. It gets back to the fact that we are not entirely happy that there is one set of rules for those who are suing a private defendant and another set for those who are fortunate enough to find a defendant to whom retrospectivity applies. The Opposition believes that both situations should be the same. We believe that the rights that a person has against a private defendant should be the same as the rights they have against the State Government as defendant. The rules should apply equally and claimants should be entitled to issue the proceedings before 1 September. Those are serious matters. The question of costs, which I raised earlier, concerns me. We accept that something has to be done. We accept that there has to be a balance. As I said, the Opposition does not oppose the bill but has certain concerns.

**Mr McBRIDE** (The Entrance) [9.35 p.m.]: Many issues have been raised in this interesting debate. I congratulate the honourable member for Baulkham Hills on his contribution. He recognised the need for this legislation and supported the content of the bill. He referred in debate to an issue that has been referred to by other honourable members—two categories of clients. The honourable member for Vacluse, who led for the Opposition in this debate, is the Coalition spokesman for insurance regulation. It is interesting that he is the spokesman for insurance regulation when insurance is a Commonwealth responsibility, not a State Government responsibility. The Australian Prudential and Regulatory Authority [APRA] regulates insurance throughout

Australia. Senator Helen Coonan is the Federal Minister responsible for APRA and insurance regulation. The Coalition contends that State governments have no responsibility for civil liability and other insurance issues, which shows just how inept the Coalition is in regard to this issue.

Everyone in this State recognises—it has been a high-profile issue in the media for months—that many organisations are constituted by volunteers. In my electorate, for example, we have the Volunteer Rescue Association, which has approximately 28 accredited rescuers who perform rescues on the F3 following road accidents and major calamities. Liability is a major issue for volunteer organisations. Because its insurance runs out at the end of this month, that organisation, which has existed for decades, is facing a crisis. That organisation, which is an integral part of rescue operations and saving lives on the Central Coast, is facing a dilemma because at the end of this month it will have no liability insurance. That demonstrates the far-reaching nature of this issue in our community.

Honourable members who preceded me in this debate referred to statements made by Prime Minister Howard and other responsible leaders in our community indicating that this Government, as opposed to the Queensland and Victorian governments, is showing the way in responding to this issue. This State has two-thirds of the nation's population and the New South Wales Government has taken decisive action by introducing this legislation. Stage one of the Government's strategy will rescue the community from a crisis that is confronting volunteer organisations, not just in Wyong but in all parts of the State. It has been suggested that the Anzac Day march is now under threat because public liability insurance will not cover it. However, an organisation in a country town had not made an insurance claim relating to an Anzac Day march for more than 40 years. Indeed, no-one could remember when that organisation had ever made such a claim.

The State Government faces a dilemma because it cannot regulate the insurance industry. Opposition speakers have asked whether the State Government can guarantee reductions in insurance premiums and associated costs as a result of the introduction of this legislation. The State Government cannot provide such a guarantee. The Australian Competition and Consumer Commission [ACCC] and Senator Coonan, the Minister responsible for dealing with the insurance crisis and assistant to the Federal Treasurer, must act upon and support the actions we are taking in this Parliament. If the ACCC and Senator Coonan do not take appropriate action in support of this legislation and similar legislation to be introduced in the future, the legislation may not be successful. The Federal Government is responsible for the regulation and oversight of the insurance industry. If the legislation fails, the Federal Government, not the New South Wales Government, will be to blame.

The main changes from the draft bill will set maximum damages for loss of earnings at three times average weekly earnings per week, instead of the \$2,712 as originally proposed; continue to apply the existing law to claims against the Crown and State-owned corporations notified before 20 March 2002 and filed in court before 1 September; increase the cap on lawyers' costs from \$5,000 or 15 per cent to the greater of \$10,000 or 20 per cent of the amount recovered; extend the cap to defendant lawyers' costs, except that the percentage will be calculated on the basis of the amount claimed by the plaintiff rather than the amount recovered; clarify that the cap does not apply to disbursements other than barristers' and agents' fees; and permit plaintiffs and defendants to contract out of the cap for solicitor-client costs, provided the solicitor discloses the basis for solicitor-client costs.

The issue of solicitor-client costs has been raised on a number of occasions with respect to solicitors engaging in ambulance chasing for civil liability claims. Many examples of that have been instanced in this Parliament and in the media recently. It is a major issue, and it has been addressed. As the honourable member for Baulkham Hills pointed out, he was a practising lawyer for some 30 years. He said that he has observed the practice accelerating in the profession over the past 10 years and that solicitors are now chasing clients for civil liability and other insurance claims.

Further changes from the draft bill will permit the recovery of additional costs where an offer of compromise has been made but not accepted, and the court has ordered that the offering party's additional costs be indemnified by the other party; permit the court to award greater costs in the particular circumstances of a case, but only for reasons of the defendant's conduct of the case; change the standard for filing meritorious claims to the standard in the professional rules applying to barristers and solicitors—in other words, there must be reasonable grounds for making any allegation of fact and those facts, on a fairly arguable view of the law, must provide a basis on which the claim might succeed; apply the same standards for making meritorious claims to filing defences; continue to apply the existing damages rules to personal injuries inflicted by a defendant acting maliciously, with intent to cause injury or death or arising from sexual assaults; allow gratuitous care damages to be awarded even if the relative or friend providing the free care has not lost income or forgone employment; and exclude exemplary, punitive and aggravated damages only for negligence claims, that is, not assaults and the like.

It should be acknowledged that the conditions set out in the bill are consistent with the Health Care Liability Act 2001, which the Government had to introduce in this Parliament as a result of what was happening with regard to doctors practising in public and private hospitals and in their own surgeries. By comparison with other State governments throughout Australia, the New South Wales Government acted quickly to deal with this issue. The conditions set out in this bill are consistent with decisions made and supported in this Parliament with regard to the Health Care Liability Act 2001. They are also consistent with motor accident reforms and workers compensation reforms passed in this Parliament and enacted.

Debate about insurance and related issues has been going on in this Parliament for more than two years. Those issues have not simply arisen overnight; they have been creeping up on governments throughout Australia over the past two years. My personal view about insurance companies is probably similar to most people's view about banks. Like most people, I believe that because insurance companies now have no real competition—as evidenced in the debate in this Parliament on builders indemnity insurance—they are using their might to jack up premiums. Insurance companies now use the events of September 11 as an excuse for saying they may have to face a huge liability. People have asked what would it cost if two 747s crashed over Sydney. I do not know what the cost would be, but insurance companies say that that is a possibility they have to take into account.

In my view, the companies will use the possibility of such events as an excuse to increase premiums in every other area. If they have areas in which margins are skinny they will look at ways to increase premiums in those areas, so as to reduce their risk and increase their profits. Most insurance companies are housed in fine city buildings. They do not spare money when it comes to their accommodation, salaries, wages and conditions. As I am a local member, on many occasions people have come to my office—and I am sure other members have the same experience—to seek my assistance with what I have regarded as fair claims, but in respect of which they have been booted from pillar to post by their insurance companies.

Insurance is a huge issue, and I do not think we will find a solution to it. I believe that further unforeseen issues will continue to arise in the future. The legislation must be seen in the context of previous legislation on health, motor accident and workers compensation insurance. It must also be seen in the context of insurance in the building industry. This is important legislation. I expect that any fair-minded member of the Opposition will totally support it, and I commend it to the House.

**Mr WEBB** (Monaro) [9.50 p.m.]: I welcome the opportunity to debate the Civil Liability Bill. I hope that it will be enacted as soon as possible to provide the necessary protection for communities throughout the State, and particularly communities in the Monaro. The bill has been a long time coming. The honourable member for The Entrance and other members spoke about the history of litigation and insurance. I recall the Lockerbie crash, an international disaster. The massive cost of the terrorist attack on a 747 brought Pan Am undone. That event revealed to the world the potential cost of insurance. Later there were other major accidents, terrorist attacks and national and international company collapses.

One of the problems in society today is that we have, through governments, tried to foresee every possible outcome. We have tried to repair every possible crack and avoid every possible event in which someone may come undone. We have rules, regulations and legislation in place to assist, cajole and help to try to deal with every possible negative impact. At the same time we have kept in place common law compensation provisions. We have also addressed many social ills. We have in place disability pensions, pretty good public health services, and very good ambulance and rescue services with up-to-date and probably world-class equipment. Yet today people can still sue for absolutely ridiculous things that they have no right to sue for.

My communities have certainly been calling for the introduction of the bill. In October or November last year I gave notice of a motion calling on the Government to address the problems that my community was calling on me to seek solutions for. We have had to wait until now for this bill to be introduced—far too long—but we will have to wait even longer for stage two. Many aspects of the insurance issue are not addressed by the bill and, regrettably, many businesses, groups and individuals, and much of the cultural diversity that we have become used to, will be lost because of the delays in the presentation of stages one and two.

A couple of months ago the Federal Ministers with some responsibility in this issue held a summit. The original position of the New South Wales Government was not to take a position or policy to the summit but just to go along to see what the Federal Ministers had to say. That is not leadership. At that time the people of New South Wales were calling on the State Government to produce a bill such as this, to come forward with some suggestions to be addressed later in stage two. My constituency and I are disturbed by the rhetoric from the

Premier and the Labor Party in the House, the shenanigans and the waste of time in petty debate about unimportant things. Up until now we have had no action. A draft consultation bill went out but until legislation is enacted, people will not have the security they need to get on with their lives and to protect their cherished notion of "being Australian".

This is the most serious issue confronting Australia today. Regrettably, Australia—and New South Wales leads the way—has caught up with and perhaps overtaken the Americans in many aspects of litigation. That is a dreadful consequence of our modern society. Many things have been talked about in this debate, including the ability of other jurisdictions, the Australian Competition and Consumer Commission and the insurance regulators to be involved in this matter. Nevertheless, at the end of the day the New South Wales Government has a responsibility to bring about the changes that are suggested in this bill and the changes in stage two that we are waiting for.

Unfortunately, the other part of our society, the third area of governance in Australia, the judiciary, will have to be dragged along as well. We have seen many regrettable instances. Recently a court awarded \$3.75 million to a man who went between the flags at Bondi Beach, dived into a wave, and came to grief. I just do not think it is acceptable for a person, despite his own foolishness at the time, to sue somebody when all care has been taken. In the end the insurance companies, through the courts, paid out a massive sum that just takes the system down even more. In the Snowy Mountains a chap used a real estate sign as a toboggan, against all the best recommendations. He came to grief and was awarded \$7 million. Such an award in such circumstances works to the severe disadvantage of our society.

The operators of sightseeing businesses are now saying, "I cannot afford to take the elderly, little old ladies, and children on my sightseeing tours. I will just take recreational fishermen out game fishing. They can pay me. They take care of themselves. They will not sue me." That type of mindset change is occurring. People who are injured whilst drunk and criminals are able to sue businesses. Obviously, this is just not acceptable. These cases go against the traditional Australian ethos of people taking responsibility for their actions, basic commonsense and looking after their mates. Where are we going with this? The world-renowned Australian volunteer ethic that we all know and love and are part of is being whittled away and lost—partly by this Government's inability to introduce this kind of legislation, these absolutely essential changes in our society. When community organisations, clubs and sporting organisations and volunteers leave and walk away who will bring them back?

**Mr Debus:** Has any other government done this?

**Mr WEBB:** Do you think this bill will bring them back? They are waiting for stage two to help them. How long will that be? We have lost another ski season. We have lost another winter sporting season. Once the volunteers have gone, is the Minister going to get them back? Will he going to my communities and tell them all to come back? What is chaos?

**Mr Debus:** Tell me who else has passed legislation or even begun to?

**Mr WEBB:** You should have done it months ago. For months the people have been calling on you to introduce protection legislation to make sure that the diversity in our communities is not further eroded. We are not saying that people who are genuinely injured should not be looked after. I have spoken about the mechanisms that already do that. There must be a way whereby people who are the subject of gross negligence can be adequately and fairly compensated. But action is required now, because cultural diversity, the very fabric of our country areas, is under threat through this massive public liability crisis.

We must act. We must have stage two now. The problem is impacting daily on the lives of millions of people in New South Wales. In country areas events that have been part of communities for decades have been cancelled and businesses are closing down because of soaring premiums and the unavailability of cover. Indeed, the top cultural icon in Australia—the horse and its connection to sporting activities, equestrian activities, small businesses and tourism operations—is under threat because businesses have been told they cannot get insurance cover. The proprietors of the businesses cannot operate without insurance cover.

The problem is coming to attention now as annual renewals of insurance premiums become due. Increases of 100, 200, 300, 500 and 1,000 per cent are occurring. What will the increase be next year? In most cases, alternative cover is not available. This problem has been building for some time. Since the HIH collapse the message has been driven home and now, in the middle of 2002, this bill addresses half of the community's

problems. The impact of this problem is being felt throughout society. The Government must empower waivers that will protect risky ventures and business operators who acknowledge that their customers or clients are about to embark on risky ventures, whether they be engaged in whitewater rafting, paragliding, horse riding, or in sports such as downhill skiing, surfing or things like that. Flying is a great example. I was an ultralight pilot and I fully understood that in carrying out that endeavour my insurance policies would not cover me if I came to grief.

We have to look at the South Australian Government's initiatives and at what the township of Mansfield in Victoria has done to address this problem. Otherwise, we are going to see the whole fabric of our society destroyed. The Adaminaby Fair, a horse riding extravaganza, had to abandon the use of horses and use plastic horses. Is that fair? How can the community support that? The Big Ride is in jeopardy. The national waterskiing championships in Jindabyne had to be abandoned because the organisers could not get cover.

This bill does not protect community groups, local government, sporting clubs, incorporated associations or good Samaritans. Recently one shire council in New South Wales resigned as the managing authority of 29 Crown reserves. Imagine the effect of that if it were multiplied by 172 councils in New South Wales. How will local government cope with the feascance changes when it has not received the funding from this Government to fix potholes in roads and cracks in footpaths? How can local government be responsible? It will have to pass on the cost to the ratepayers. It will have to tear up the footpaths and tarred roads and make them gravel again. It will have to put up signs all over the place so it is covered.

This Government has not been active; it has been sitting on its hands. It has been scripting clown shows so the Premier can carry on like a fool in question time. I am disappointed to be part of this place when I see that. We have been calling for this kind of legislation for so long but this bill goes only half the way; it does not protect everybody. The Government is still collecting a tax on a tax, in the form of stamp duty on insurance premiums. It takes from the people of New South Wales some \$40 million a year and uses it to fund some other initiatives.

I am concerned that the bill creates two classes of people, a matter that was spoken about earlier. Those injured by misadventure involving the Crown have a longer period to claim than others. That is a major problem. Retrospectivity also needs to be addressed. We have to take into account claims histories. Many community groups, sporting clubs and businesses have been paying premiums for years and, in many cases, have not claimed against their policies but are now facing massive increases or no cover. The GIO has decided to pull out of various kinds of cover. Premiums have risen well beyond the capacity of those organisations, clubs and businesses to pay. In some cases the premiums have exceeded the annual income of those clubs or groups.

How can our small community groups ever hope to satisfy the roles they have grown into in our society? They are part of the cultural diversity of our society, part of the natural resources of our society, and part of our tourism and recreational opportunities. We cannot all live in Sydney and be protected by one local government or State Government. Other honourable members will speak about various clauses of the bill and how they relate to different aspects of the problem, but I want to see stage two introduced. I want to see waivers and protective measures put in place. We need a discussion draft on that urgently so this mess can be cleaned up and the people of New South Wales can be given the protection they are due.

*[Debate interrupted.]*

## **BUSINESS OF THE HOUSE**

### **Extension of Sitting: Suspension of Standing and Sessional Orders**

#### **Motion by Mr Whelan agreed to:**

That standing and sessional orders be suspended to vary the resolution of the House on days and hours of sitting to permit the House to sit beyond 10.30 p.m. at this sitting.

## **CIVIL LIABILITY BILL**

### **Second Reading**

*[Debate resumed.]*

**Mr COLLINS** (Willoughby) [10.05 p.m.]: This problem has been heading for the New South Wales Government for at least the past 10 years. This problem was completely foreseeable and has been raised



repeatedly by Opposition members in this place over the past few years. It has been written about in financial newspapers for the past several years and—surprise, surprise—it has finally happened. The people of the State are witnessing a Premier who, in a lather of self-congratulations, is saying that his is the first Government in this country to move on the issue. All I can say is: It is about time the Government in New South Wales started to address this issue, which has the insurance system in this State teetering on the edge of collapse. It is time the Government read the warning signs. It is staggering that the Premier has taken this long to come to grips with the issue and trot out this bill as some kind of wonderful government initiative as if he is finally in control. Sadly, this legislation is riddled with holes. It is partial, bandaid legislation; it is Swiss cheese legislation, a desperate attempt to catch up and repair a system teetering on the edge of collapse.

Where has the New South Wales Government been? Under Premier Carr it is ensuring that juries no longer hear civil cases. Why is it that the case brought to public notoriety in the past couple of weeks involving an injured surfer at Bondi was heard before a jury? The Government is now desperately and retrospectively seeking to plug holes all over the place with his legislation, but why did it not move to plug that loophole, which has been staring it in the face for the seven years it has been in office? I am pleased that the Attorney General is in the Chamber. Five years ago I visited a small park in his electorate of Blue Mountains. The operator of the park had made a range of swings and things for kids to play on. They were fairly inventive. With cast iron and wrought iron the owner of the park had constructed various vehicles—rocket ships, planes and so on—that kids could climb on and sit in.

Four or five years ago the operator said he had to close the park because of public liability insurance problems. That park was in the Attorney's own electorate. That amenity went by the wayside, the way thousands of other amenities across the State are going. So much of our lifestyle is now up for grabs because of this Government's inaction. Yet, in New South Wales juries are still hearing civil liability cases, and they are bringing down Santa Claus verdicts. Had the Bondi case been heard before a judge it is highly improbable that that judge would have held for the plaintiff. Yet, the jury, the members of which for once in their lives got their hands on the till, opened the till and gave the plaintiff whatever amount came into their head.

It was a staggering decision by that jury and one that shocked the people of this State, once again, into the realisation that we need emergency legislation. The Opposition will not oppose this emergency legislation, nor will it let the Carr Government get away with any sort of claim that this is staying ahead of the game, that this is leading the pack. New South Wales is the engine room of Australia, and this Parliament is the ideas factory for Australia. Therefore, this Parliament should be the legislative ideas factory for Australia. That the New South Wales Parliament is the first Australian Parliament to introduce new civil liability laws should not be a surprise. New South Wales should pride itself on leading the way with new legislative concepts, particularly those with such financial gravity as this bill.

The Premier adopts the defence that he cannot do any more because insurance is a Federal Government responsibility. That was an interesting statement, because that has not stopped governments in the past from coming up with draft uniform legislation that can be picked up by other States. If New South Wales really was leading the way in this debate, the Premier would introduce a comprehensive bill that included provisions requiring Federal legislation. In other words, he would be putting a total package before the Parliament that would not put insurance companies in a position in which they could easily have a windfall, as they will from the proposed bill.

I predict that this bill will not result in any cut in premiums; it will underpin the profitability of insurance companies and it is likely to produce a windfall, albeit temporary, for insurance companies. I say temporary because the long-term systemic problems underlying civil liability and other insurance, which should be under debate by the Government, are not being addressed. The Government has a huge amount of work ahead of it before it can hold up its head on civil liability insurance. As well as abolishing juries in civil cases, which should be effective immediately, surely it is incumbent on the Government to provide judicial guidelines on civil liability cases.

Where has the Government spelt out its information package for the judiciary to arm it with the actuarial advice that it will need to ensure that any safety net provisions are distributed equitably? There is no such provision. I would have thought it incumbent on the Attorney General to outline the guidelines and additional assistance that can be provided for the judiciary to understand the financial magnitude of the decisions the judiciary should be making and that juries should not be making. I and my colleagues on this side of the House would like to see some principle enshrined in the bill for foreseeability of risk.

The honourable member for Monaro spoke eloquently about that, yet what the Government says is so desperately needed is completely missing from the bill. The bill contains nothing about foreseeability of risk

whereby people can take responsibility for the risks they choose to face as a result of their own actions. Also missing from the bill is any indication that the Government will seek, through co-operation with the Commonwealth, to ensure that insurance companies should comply and expedite claims and face the kinds of cost constraints that the legal profession will face. The Law Society has greatly moderated its initial anger about this bill. It has tempered its language very considerably and now claims to be in close consultation with the Government.

The Law Society has certainly toned down the invective of a week ago that was embellished further by individual law firms that have swamped members of the New South Wales Parliament with correspondence over the past week. They claim that they are about to see their businesses go out the window. The Government has to address many other areas before this bill can be considered in any way complete, even as a first stage exercise. The honourable member for Monaro asked where is the spelling out of protection for good Samaritan actions? There is none. We have been told to wait until September, wait until later in the year, wait until some package is developed.

This Parliament and this State are the powerhouse for many planning exercises of national consequence. When I was Attorney General, and then Minister for Consumer Affairs, I was involved in the development of uniform national credit laws. It is up to us as legislators to put forward ideas that can be picked up in uniform legislation and adopted by other States, Territories and the Commonwealth. Certainly there is a need for uniform national legislation, but that in no way should enable the Premier and his responsible Ministers to abrogate their responsibilities and simply leave it all to the Commonwealth.

Another area that obviously should be covered in some detail in debate on this bill is the establishment of a uniform table of maims to cover injuries however they might be incurred. Why should someone who becomes a paraplegic through a motor vehicle accident potentially receive different benefits from someone who becomes a paraplegic in a workplace accident? Why is it that that person should be on a different remuneration scale for an injury if that injury was occasioned within the province of local government where public liability insurance kicks in? In other words, within a very short time there will be massive discrepancies. People suffering the same injury will be on completely different scales of benefits. Being injured in one manner under one form of insurance provides a windfall whereas being injured without that insurance cover will mean that that person's life is utterly destroyed.

This Parliament should be about establishing equity and certainty, about the intelligent use of what resources we can muster. That is what is so delinquent about this bill. The Government is abrogating its responsibility and is not prepared to look at the big picture. Instead, it is saying that because the Commonwealth is responsible for insurance it will cop out at this stage. The Government wants to bail out and let the Commonwealth take the lead to come up with something. The Government will not take the lead, the Premier is not going to take the lead. He is sitting back and waiting for others to take the lead. The Premier cannot afford to sit back. He should be showing leadership and putting a total package on the table of this Parliament for us to debate now. He should not start the debate in September or after more Commonwealth-inspired and Commonwealth-led national conferences. To date, the Commonwealth has taken the lead on the insurance front.

My friend and former staff member, Joe Hockey, was the first Federal Minister to raise the issue, to start ringing the warning bells. My friend the Federal Assistant Treasurer, Helen Coonan, convened a national conference a couple of weeks ago. They are doing their bit on the insurance issue. Where is the State of New South Wales on this vast raft of issues which are critical to the success of putting together an equitable package to benefit all Australians? The leadership that should be shown by the State and the Premier is missing from the bill before the House.

**Mr FRASER** (Coffs Harbour) [10.20 p.m.]: In speaking to this bill I will quote something that the honourable member for Lachlan has said in our party room and publicly in the past. When a child or grandchild playing in a person's backyard on a swing chips a tooth, the person takes the child straight to the local dentist, but if the accident happens in the local park on the street corner, which is under the jurisdiction of the council or another body, the person takes the child to the dentist via their solicitor's office. Australians have become very greedy. Many accidents are now regarded as evidence of negligence. That link has been established by the legal profession, to a large extent. Honourable members who do not believe that should pick up any newspaper published during the past six months and read the advertisements placed by lawyers in Sydney and in regional New South Wales. They say: "Had an accident? You may be entitled to compensation."

When I was a kid an accident was an accident. If I grazed my shin while playing in the local park I would see the doctor. If I got stitches, I got stitches and that was it. Parents told children that the scar on their

leg—I have a few scars on my legs, my head, the lot—added character. These days a scar adds a dollar value to one's future, not character. Why are public liability insurance premiums in Queensland and Victoria cheaper than they are in New South Wales? I blame the insurance industry. For example, when a person decides to sue another person the insurance company looks at the case and says, "There could be \$25,000 to \$30,000 worth of legal costs in this so what we will do is make an offer. We will offer \$10,000." The insurance company and the lawyer negotiate the amount down to \$15,000, and the lawyer takes his percentage cut, as advertised. If lawyers win they take the fee, which is a percentage of the claim.

At the end of the day, whether or not liability is admitted, the claimant gets a verdict settlement for \$15,000, which forces up the premium. Insurance companies are guilty of doing that. Lawyers are guilty of utilising the system to allow that to happen. If Parliament cannot stop that, there is something wrong. It is all very well for the Government and others to say, "We need to look at it to ensure that there is equity." There is no equity in the system. Lawyers will say that we need equity, that we need to look at all cases. In fact, lawyers deny equity because most of their advertisements state, "No win, no fee." If it is no win, no fee, a lawyer will not take a doubtful case. A lawyer will not take on a case if there is a less than 50 per cent chance of winning. There was no equity previously.

Public liability has flowed through to affect every part of our lives. These days there are security cameras in pubs and clubs. Why? Someone could throw some coke or beer on the floor, slip over with mates as witnesses, and then sue. Then the process I have outlined comes into play and people make money. Insurance companies pay out and pubs and clubs lose because their public liability insurance premium go up next year. Even quota clubs, lions clubs, rotary clubs and apex clubs are affected in terms of community events. I was a member of an apex club for 19 years. We ran barbecue after barbecue after barbecue and Christmas carnivals. Such events are no longer possible because of the public liability insurance premiums now being charged. That system has been allowed to develop. It is no longer profitable for community events to be held. Often, any profits made from events organised for community facilities are lost because of higher insurance premiums.

I will give some examples. I am surprised that the Minister for Local Government, Minister for Regional Development, and Minister for Rural Affairs has not participated in this debate. The Jackadgiry race day and picnic, which are held in the electorate of Clarence, have been cancelled. Why? It was a great day that was attended by people from throughout the North Coast. However, the event has been cancelled because of the cost of public liability insurance. One of the best-known boat races in Australia—it involves power boat races with skiers behind—is the bridge to bridge race on the Clarence River. That has been cancelled because of the cost of public liability insurance.

Over the coming long weekend I will officiate, as I have done for a number of years, at the opening and first race of the over-40s go-kart championship in Coffs Harbour. The organisers of that event have written to me to say that they can no longer hold the event. The local lapidary club has written to me to say that its public liability insurance premiums will force the club to close. During my days at the Apex club I trained more than 350 people in cardiopulmonary resuscitation. These days if someone dropped down in front of me with evidence of a heart attack or an electrical shock, I would think twice about resuscitating them because if I broke their rib or punctured their lung while saving their life they could sue me.

It is high time Parliament sent a message to the community, but I do not believe this bill sends that message. The Premier in his second reading speech—I was the only Opposition member in the Chamber to listen to the speech, together with about 15 Government members—said that this bill will reduce premiums by about 14 per cent to 16 per cent. He made a big show of placing actuarial calculations on the table of the House and saying, "Read them!" A fellow in my electorate by the name of Kevin Rubie bought the Big Banana as a bankrupt business. He has built it up into a terrific business that runs a toboggan ride, a snow slope, which has just opened, and a train. It also has assorted shops.

A major claim for about \$10,000 was made against Mr Rubie. The insurance company settled the somewhat dubious claim. The insurance company paid \$10,000 to the claimant, who had apparently hurt her ankle. It paid her \$10,000 to make her go away. Honourable members may ask what that has to do with the bill. Kevin Rubie's most recent premium payment was \$13,900. A \$13,900 premium for a tourist attraction sounds like a lot of money for public liability insurance. I am sure most honourable members of the House have visited the Big Banana and had their photograph taken in front of it, as it was the first big tourist attraction in New South Wales.

Because of public liability concerns Kevin Rubie has now put rails around the front of the Big Banana where people stand to take photographs. He will save about \$1,500 a month, which equates to about \$10,000 a

year. That is not bad money—\$200 a week. However, payment of more than \$2,000 in insurance premiums is disgraceful. The Premier talked about the second tranche of this legislation. We have all seen cases of people who have been seriously injured. Recently a fellow picked up \$3.5 million from Waverley Council after diving into a sandbar off Bondi Beach and breaking his neck.

He was subsequently awarded \$3.5 million, but does he need it? Disability services in Australia are fairly good. I know that we provide disability pensions—that can create another argument because recipients would say they are not very good—and someone in his situation would qualify for one. We owe that young man a life with which he can be comfortable. Anyone who is severely injured should be provided with a home that is wheelchair accessible and nursing facilities. I note that the Parliamentary Secretary for the Minister for Health is in the chair, and he knows full well that home care, nursing facilities and other facilities are available to make sure that such people are comfortable until the end of their lives.

People who have severe injuries often have a shortened lifespan. Not long ago a person was paid \$12 million or \$13 million because that person was born severely disabled due to a lack of oxygen at birth. The expected lifespan of someone with that type of injury is shortened by a fair amount. That person was into adulthood before the claim was paid. I suggest to this Parliament and the people of New South Wales that that person will probably die early and that the \$12 million or \$13 million will make some relatives very rich. Why are we not considering annuities and guarantees of service? Why do we not change this get-rich-quick mentality? Why do we not move away from the way we settle these claims and send a message to insurance companies? Such a message would substantially reduce premiums. I challenge the Premier to bring in the second tranche of legislation now and send that message to the claimants.

About two years ago a woman and her husband came into my office. The woman had been walking on Coffs Creek Walk. It is appropriate that the former Minister for Public Works, the honourable member for Lachlan, is in the Chamber because he launched Coffs Creek Walk, which was built by Rotary with State Government funds. It is a magnificent walk up both sides of Coffs Creek from the foreshore to the town centre. The woman ventured off the path and found a set of stairs, which had been there since somewhere around the turn of the last century. She twisted her ankle. She required medical attention, which she received under Medicare at the hospital. Her ankle was fixed. She suffered no residual disability, but she decided to sue the council, which had since taken over the maintenance of the park.

The solicitors could find no liability on the part of the council because no-one knew who put the stairs there in the first place. The solicitor in Sydney who took on the case—local solicitors could not and would not handle it because they did not think there was a liability—lost it within the court system. The judge found that the woman had to pay council's costs as well as her own. She had a bill of \$40,000. She came to me and said, "I am going to lose my house." I said, "Why did you sue?" She said, "We thought we could get probably something between \$250,000 and \$500,000, and that would have set us up for life." She went against legal advice, lost the case and then lost her house. I blame the system, the lawyers and the insurance companies for these ludicrous claims. Bring in the second tranche, change the system so that people do not get a lottery win at the end of the day and send a very strong message to the insurance companies that we do not want lump sum payments to hide the legal costs. I worked for the insurance industry, and I know they do that.

We should send the message that, if people are going to make these claims, accidents are accidents and we as a society look after people who have accidents. But we will not start paying out and putting that impost back on the community so that our enjoyment is diminished. We cannot take our kids to the corner park and after what happened at Bondi we cannot take them to the beach. We cannot take them anywhere because councils and others will put a stop to our recreation that we accept as part of our freedom. If we do not do something quickly we will have no freedom in this country. As members of this Parliament we have an absolute obligation to the public of New South Wales to stop the rorts in the system.

**Mr ARMSTRONG (Lachlan)** [10.34 p.m.]: Probably no issue is more worrying and concerning to the broader community than public liability. At the risk of being a little smug about it—I certainly do not want to be—more than two years ago I made an appointment to speak to the Premier about insurance. I could see that there would be major problems with public risk insurance and certainly workers compensation insurance. I was concerned about the number of people whose homes, businesses and motor cars were underinsured. The Premier listened to me and we discussed it. I suggested that he might care to initiate a debate in this place so that we could expose those issues and make them a community subject. I wrote to the then Leader of the Opposition to ask her to go down the same path. I was able to discuss it with her and requested that the Opposition consider it. Nothing more happened from both counts. Unfortunately, I was right.

As we know, towards the latter part of last year and early this year public liability started to get out of hand. To try to get some sort of profile for it I called a forum in Cootamundra for early February this year and in Forbes for the next day. I invited six speakers representing organisations such as the Local Government and Shires Associations, the Employers Federation, the Plaintiff Lawyers Association, the Insurance Council of Australia and Ian Douglas of Tricon Underwriters to be guest speakers at those two forums. I informed the speakers that they would come at their own expense and that we would probably get about 40 people at each forum. However, we ended up with about 140 people at Cootamundra and about 180 people at Forbes. Instead of coming from the local towns, the people at the Forbes meeting came from Wilcannia in the west, Inverell in the north and Moss Vale in the south.

It was word-of-mouth publicity. It was done on a shoestring. People were charged nothing to attend. It was a very low-budget presentation. But the ABC and other media organisations got behind it and, as the word spread, it took off. There is an old saying among country people that everybody who has lived in the country for any length of time has a snake story. Snake stories are now exceeded by public liability stories. The previous speaker, the honourable member for Coffs Harbour, detailed some of his experiences, and I do not wish to try to tell bigger and better stories. But I can assure honourable members that, as I go up and down the streets of my constituency and travel around as the shadow Minister, it is the most common story in organisations, pubs and Apex meetings. This is the subject that people want to talk about. They are worried about it. We are told that the legislation is the first tranche of the Government's reforms. Speakers from the Opposition explored, and will continue to explore, what we perceive to be some of the weaknesses in the legislation.

The bill fails to address the problem that previous legislation created for incorporated bodies. Many organisations—such as country show societies, sporting organisations and so forth—were told some three to four years ago that they had to incorporate. Why? Because if they incorporated they would not be liable to prosecution. That is simply not right. The organisation is liable to prosecution, but the value of the successful prosecution is limited to the assets of the organisation. That is it. But where the legislation fails is that the trustees or the directors of that incorporated organisation are exposed. I am very disappointed that this bill has not addressed that oversight. The Government's decision to do it in two tranches—the second one to be introduced in September this year—means that by the time it goes through this place, the legislative process and the proclamation process it is unlikely that it would have any effect until about November.

In the meantime, hundreds of little organisations such as pony and bicycle clubs, sporting and cultural-social organisations cannot make plans. In many cases they conduct their annual general meetings to wind up. All sorts of functions have been cancelled, including the Grenfell guinea pig charity raising event which was due to take place at Easter and the Springfield village fair. The Tumblong Progress Association centenary is experiencing all sorts of problems. How does one postpone a centenary? It is ridiculous. Mayhem is occurring amongst the organisations that are trying to raise money for charities, keep a community spirit, and do the right thing by themselves and their peers in supporting governments. This Parliament is not supporting them, and they are being hung out to dry until the end of the year.

I ask once again that the Government recognise the urgency of this matter and bring forward to this session of Parliament its signalled remaining reforms in relation to public liability insurance in this State. The reforms must be introduced now. The Cootamundra and Forbes forums passed four resolutions. The first was that there be a threshold introduced for public liability claims of \$36,000, which mirrors the Victorian Motor Traffic Act. I understand that something like 80 per cent of successful claims on average are for about \$30,000 to \$50,000. Somebody will immediately say, "What about the person who is injured for \$35,000?" We all have the opportunity to insure ourselves. Most people who travel overseas take out public liability insurance before they go. It is contradictory that they insure themselves offshore but fail to insure themselves onshore.

The second resolution was to exclude good Samaritan or charitable organisations—staffed entirely by volunteers—turning over less than \$300,000 from prosecution. Again, if the local gymkhana or footrace put on by the parents and citizens association is turning over less than \$300,000 one has to insure oneself and one's family. The third resolution was to put a cap of \$4.2 million on public liability claims. The fourth resolution called upon the three levels of government—local, State and Federal—to immediately bring in a major advertising program to persuade the people of this country to stop suing each other and to look after themselves. We have got responsibilities. Life is a high-risk exercise. Of course, kids will fall off bikes and out of trees, and little old ladies will slip down steps and so forth. As the honourable member for Coffs Harbour said, swings sometimes knock out teeth. It is not right, but it is part of life. If people are not prepared to take a risk they should insure themselves or stay at home. I do not expect somebody else in society to look after my mistakes. The honourable member for Coffs Harbour cited an example in his electorate. In my home town a lady is suing the local golf club for compensation because she wricked her ankle on a pine cone. Pine trees are a feature of the golf course!

**Mr Fraser:** So we lose our golfing opportunities?

**Mr ARMSTRONG:** Exactly! The culture of that club and its membership is now fractured. As honourable members know, horses are part of the tradition of Australia. Horses are a massive industry in this country: horseracing, thoroughbred racing, harness racing and all sorts of recreational activities involve horses. Australia has a wonderful record in Olympic sports and has the best equestrians in the world. Australia was the winner of four gold medals for the three-day events at the past three Olympics. Australia has a magnificent record for a country of its size. I received a letter from Mr Rod Hoare, Director, Health and Quarantine of the Australian Horse Industry Council. The council represents the horse industry in every State of this nation. In desperation, it has written to me to ask that I highlight its problems in this House and the Federal Parliament. Mr Hoare said:

Horses are an integral part of Australia's heritage and national identity. Horse riding in Australia is open to all. It is not an elite sport unlike the situation in America and Europe. Australia has the best equestrians in the world, winners of 4 Gold medals for the Three Day Event at the last 3 Olympics.

Until this year one broker, AON, and one underwriter, SLE, provided virtually all insurance for horse sports and Pony Clubs. The underwriter has decided not to continue with this business and the Pony Clubs and the horse sports under the banner of the Equestrian Federation have been unable, despite vigorous searching, to source a replacement.

This crisis affects all riders from the youngest beginner to Gold Medal Olympians. Without insurance Pony Clubs cannot teach children to ride, coaches cannot train riders and there will be no competitions or events.

Unless we can obtain insurance cover all equestrian and leisure horse activity will have ceased by the end of the year. This will in turn affect the people that breed and train horses. Without the running of equestrian events, dependent sectors of the industry such as saddleries, farriers, feed merchants and veterinarians will feel the effect.

We need to change the climate surrounding the insurance and liability crisis. Horse riders need to accept that their sport is not without risk and should accept minor injuries as part of the sport. The only way to be sure of not falling off is not to mount the horse in the first place ...

Personal Accident Insurance is embraced as a tool to assist reduce the cost of Public Liability Insurance premiums, to cover costs of small injury claims and to influence the mindset of individuals seeking litigation. Members of the Equestrian Federation and the Pony Clubs have automatic accident insurance when riding horses. Operators of trail rides etc should be required to have this insurance available for participants.

The Australian Horse Industry Council wrote:

The Australian Horse Industry Council is calling for:

- Capping of claims.
- Periodic rather than lump sum payments.
- Restriction on "no win/no fee" advertising.
- Restriction on personal injury advertising.
- Written acknowledgement by participants of the inherent risk of adventure activities.
- Compulsory for operators to offer personal accident insurance to participants in adventure activities.

That correspondence was written by some of the most eminent and best known people in the Australian horse industry. Racehorses will be affected, and the breeders of slow and fast racehorses will be caught in this dilemma. Unless reform gives some comfort to people in the equine industry pony clubs will close and 8,000 horses on the North Shore will become redundant. There is an estimate that more than 25,000 horses are in the County of Cumberland, the owners of most of which, except for owner/riders, have closed down their operations. Olympians such as the Hoyes and the Tinneys will not train here in September this year but will have to go overseas to train. A mockery of this country will be made if our international Olympic riders have to leave this country because we cannot offer them public liability insurance.

There is no doubt that this legislation is necessary, but it has many flaws, as outlined by my colleagues. I ask that, as a matter of urgency, the Government bring forward its entire package of reforms. The Government should recognise that the community is in suspension and does not have confidence to go ahead with everyday activities because of the Government's failure to get its act together and introduce the necessary reforms. I plead with the Government to recognise that need and to stop playing silly-bugger politics.

**Mr KERR** (Cronulla) [10.49 p.m.]: The Civil Liability Bill and the insurance crisis represent a failure by the intelligence community of the Government. It is perhaps one of the greatest debacles of political intelligence. The Stasi has let the Premier down in a big way. They have been feeding him copies of the *Narromine Times* and *Trangie Advocate*.

**Mr SPEAKER:** The *Narromine News and Trangie Advocate*. Trangie is on the road between Dubbo and Nyngan. I was born 100 miles west of there.

**Mr KERR:** I am pleased that you are a subscriber, Mr Speaker, but you could imagine the cost of home delivery to Cronulla. I have to confess I am not on the subscription list. Nevertheless, it is the fault of the Stasi, because while they have been providing that documentation to the Premier, they have neglected to provide him with a subscription to the *St George and Sutherland Shire Leader*.

**Mr Fraser:** And the *Sydney Morning Herald*.

**Mr KERR:** And the *Sydney Morning Herald* and the *Daily Telegraph*. I mention the *St George and Sutherland Shire Leader* particularly, because had the Premier been reading that paper he would have seen a report nearly two years ago that Eloura Surf Club was sued in the District Court. He would have read that I raised the problems facing surf clubs, their vulnerability to negligence suits and their duty of care for voluntary workers. The Government should have been well aware of a determination in the District Court by Judge Dodd, who, I mention for the benefit of the honourable member for Wakehurst, is a former school captain of Caringbah High School.

**Mr Hazzard:** From Bartier Perry and Purcell, solicitors.

**Mr KERR:** Yes, and in that order. Judge Dodd's judgment, although it was reversed in the Court of Appeal, revealed that the surf life saving club movement was exposed to a great deal of litigation. That was an early warning. What we have been treated to in this place over the past few days has been a sudden summer storm.

**Mr Fraser:** Grandstanding.

**Mr KERR:** As the honourable member for Coffs Harbour says, grandstanding. Anyone who took any interest in the affairs of the State would have realised for some time that the Australian way of life—our civil society, our clubs and our voluntary organisations—was being threatened. The *St George and Sutherland Shire Leader* should receive a Pulitzer prize for trying to signal the dangers that were confronting us. Some months ago a Cronulla resident, David Campbell, on the front page of the *St George and Sutherland Shire Leader* drew attention to the fact that his organisation was threatened by skyrocketing premiums. Again, there was no action and no comment by the Government, despite the fact that the Opposition offered co-operation to the Government to ensure that voluntary organisations and clubs were provided with some degree of protection against litigation. Those organisations provide a valuable community service. The Government's solution to the problem is to take away people's rights. That approach fits a pattern of behaviour. There was the attack on the working class by the Unsworth Government when it reduced workers compensation benefits. Do honourable members remember WorkCover?

**Mr Hazzard:** And TransCover.

**Mr KERR:** One at a time. WorkCover was an attack on the working class. It was an attempt to protect insurance companies and employers from paying big premiums. When Nick Greiner became Premier common law rights were restored to the workers. As the honourable member for Southern Highlands will recall, the Greiner Government instituted a workers compensation scheme which provided a surplus. From 1926 New South Wales had operated a self-funding workers compensation scheme. Under the Greiner and Fahey governments the scheme went into surplus. The Carr Government has made a wholesale attack on the workers of this State. The honourable member for Wakehurst referred to TransCover, a famous memory. When we read the speeches in *Hansard* of Barrie Unsworth, the Bob Carr of his day, we see the same arguments being used about premiums, lawyers and the class warfare of "them" against "us". The Unsworth Government introduced TransCover. When Nick Greiner became Premier, once again common law rights were restored. That was at the end of the 1980s. We are now in 2002.

**Mr McManus:** Where are Nick Greiner and John Fahey now? They are out.

**Mr KERR:** The honourable member for Heathcote may well ask where Nick Greiner and John Fahey are. That is what the workers and citizens of this State are asking. We know where the honourable member and his Government stand. They stand for the reduction of benefits and the erosion of the rights of people.

**Mr McManus:** Go and do your research.

**Mr KERR:** I will come to that. A worker living in Heathcote is entitled to fewer benefits now than before the Carr Government was elected. A person injured in a car accident in Heathcote is entitled to fewer benefits and rights now than before the Carr Government was elected.

**Mr McManus:** You are working for the lawyers.

**Mr KERR:** There was a potential preselection battle that may have coloured the honourable member's attitude to lawyers. His attitude is not the attitude of everyone. Lawyers' costs are only a fraction of the overall cost.

**Mr McManus:** Rubbish.

**Mr KERR:** The honourable member for Heathcote says that is rubbish. For centuries we have had common law rights. In this State we were able to restore those rights after 1988. Has it been only in the last couple of years that lawyers were invented? They have always been part of the system.

**Mr Hazzard:** They are there to protect the workers.

**Mr KERR:** They are there to protect the workers. A document published by a group calling themselves the New South Wales Society of Labor Lawyers states, "Labor Lawyers write to oppose this bill in the strongest possible terms." That is the message from the comrades of members opposite. I will not bore the House with the rest of it.

**Mr Hazzard:** It was pretty good, though.

**Mr KERR:** Yes, it was good.

**Mr Hazzard:** Bob Carr wants to get the message across through parliamentarians, but only Labor parliamentarians.

**Mr KERR:** That is very interesting. At the request of the honourable member for Heathcote, we will look at some other research. I would like to take him first to what was said by the Premier in the House today when quoting from the *Australian Financial Review*, to which he paid glowing tribute. But the Premier should have looked at page 8 of that journal, which under the heading "Tort law is the liability crisis scapegoat" says:

The proposed solution to the crisis in public liability insurance is based on one enormous assumption. And if that assumption is wrong, it raises the question of whether the scheme will achieve its goal.

Later in that article it is said:

But a rigorous approach has not been applied to the fundamental issue: nobody has been able to prove tort law is the cause of the blow-out.

The insurance industry has mounted a polished campaign highlighting some of the idiotic outcomes of the legal system and pointing to the growth in the cost of claims. But it simply does not follow that this lunacy has caused the problems that confront insurers...

The executive director of the Insurance Council of Australia, Alan Mason, has conceded that the industry is unable to produce data showing which legislative solutions—including tort reform—would have the greatest impact on premiums.

If the insurance industry is unable to produce this data, how can policymakers produce the highly sensitive policy calibrations that will strike a balance between lower premiums and excessive restrictions on access to civil justice? The answer is that they cannot.

Although, it may well be that the journalist had not spoken to the honourable member for Heathcote!

**Mr McManus:** Why not talk to the Prime Minister and get his views on it? He supports us.

**Mr KERR:** The Premier referred to a statement made by the Prime Minister, but the Prime Minister said that we need a reform. He did not endorse this measure. [*Extension of time agreed to.*]

**Mr Hazzard:** The bill was not produced until late last night, so the Prime Minister was not in a position to endorse it or otherwise.



**Mr KERR:** That is exactly right. The New South Wales Government has allowed this crisis to occur even though it had been warned about it. The honourable member for Heathcote should have shown the Premier a copy of the *St George and Sutherland Shire Leader* of some years ago, so the honourable member bears some fault for this problem as well. Nobody disputes the need for reform, but some will pay an incredible price. The child who was present in the Chamber today with her mother and who suffered severe burns will be affected by this reform. Notwithstanding that, the honourable member for Heathcote will vote for this bill. He will vote to diminish the justice that otherwise would flow to that child.

**Mr Hazzard:** The most vulnerable people.

**Mr KERR:** Yes, the most vulnerable—the children, the disabled and others who have suffered serious injury. The Government is creating two classes of people. What is provided in this bill will not affect those who are struck by a public bus and wish to start an action, but those hit by a private bus, even though they sustain more and more severe injuries, will have the cut-off date applied to them. How is that justice?

**Mr Hazzard:** It is not justice.

**Mr KERR:** It is not justice at all.

**Mr Hazzard:** It is Carr-style justice.

**Mr KERR:** It is Carr-style justice. Attempts have been made to blame judges and lawyers.

**Mr Hazzard:** What does Justice Spigelman say?

**Mr KERR:** I thank the honourable member for Wakehurst for providing me with an article in which Chief Justice James Spigelman accused the State Government of allowing the insurance industry to drive its negligence reforms, warning that it will spark long-term community resentment and compromise fairness in the system. Nobody could accuse Chief Justice Spigelman of having a Liberal Party pedigree. His Labor Party connections are impeccable. He is a former private secretary to Gough Whitlam and a member of the Labor Party.

**Mr Hazzard:** And a good lawyer.

**Mr KERR:** A very good lawyer, with a very good judicial mind. This House should be informed of what appeared in a *Sydney Morning Herald* article of 16 May quoting Chief Justice James Spigelman. It stated:

"Why should compensation be fundamentally different depending on whether injury occurred in a car or in a car park, or at work or on the operating table or in a public swimming pool or at a supermarket?"

"There is no discernible principle lying behind these differences," he said, adding that the differences came from legislative changes being shaped by underwriters and insurers.

That is not a great legacy for this Labor Government to leave the people of New South Wales. Bill McKell would never have touched this legislation. He ensured the workers compensation scheme endured during the Second World War and in the post-war period, despite economic deprivations. Yet the Carr Government, in a period in which the fundamental economics are good, has allowed this horrendous attack on workers, children and injured people. Some issues need to be determined. We must acknowledge the right of an individual to sue under the common law.

Another article that should be brought to the attention of the House appeared in the *Daily Telegraph* of 9 May this year. It quoted Justice James Thomas, who recently retired from the Queensland Court of Appeal. He mentioned the individual's right to sue under the common law and spoke of the need for a "High Court ruling that will determine when personal irresponsibility can outweigh the duty of care of a third party". But it is not only a High Court ruling that would assist. Sensible legislation that could strike a balance in this State would be of immeasurable benefit. The individual's right to sue under the common law and the need for a High Court ruling that will determine when personal irresponsibility can outweigh the duty of care of a third party are extremely important matters that should be looked at.

I referred to comments made by Chief Justice James Spigelman, who made a very important speech in relation to personal injury and the law relating to it. The New South Wales Supreme Court web site contains a summary of that speech. I commend that summary to the honourable member for Heathcote so that he may

protect the people of his area. The issue at stake is justice for the most vulnerable people in our society. We, as parliamentarians, also have a duty of care to those injured as a result of a wrongdoing. Why should not a person who sustains an injury because of the wrongful actions of another person be entitled to some form of compensation for those injuries? This bill does not address those very important issues.

**Debate adjourned on motion by Mr McManus.**

**The House adjourned at 11.09 p.m.**

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