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LEGISLATIVE COUNCIL

Wednesday 12 August 2015

The President (The Hon. Donald Thomas Harwin) took the chair at 11.00 a.m.

The President read the Prayers.

WORKERS COMPENSATION AMENDMENT BILL 2015

STATE INSURANCE AND CARE GOVERNANCE BILL 2015

Bills received from the Legislative Assembly.

Bills introduced, and read a first time and ordered to be printed on motion by the Hon. Duncan Gay, on behalf of the Hon. Niall Blair.

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council [11.02 a.m.]: I move:

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

Question put.

The House divided.

Ayes, 23

Mr Ajaka	Mr Gallacher	Reverend Nile
Mr Amato	Mr Gay	Mr Pearce
Mr Blair	Mr Green	Mrs Taylor
Mr Borsak	Mr Khan	
Mr Brown	Mr MacDonald	
Mr Clarke	Mrs Maclaren-Jones	
Mr Colless	Mr Mallard	<i>Tellers,</i>
Ms Cusack	Mr Mason-Cox	Mr Franklin
Mr Farlow	Mrs Mitchell	Dr Phelps

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Ms Barham	Mr Pearson	Mr Veitch
Mr Buckingham	Mr Primrose	Ms Voltz
Ms Cotsis	Mr Searle	Mr Wong
Dr Faruqi	Mr Secord	<i>Tellers,</i>
Mrs Houssos	Ms Sharpe	Mr Donnelly
Mr Mookhey	Mr Shoebridge	Mr Moselmane

Question resolved in the affirmative.

Motion agreed to.

Second readings set down as orders of the day for a later hour.

Pursuant to sessional orders Formal Business Notices of Motions proceeded with.

BUSINESS OF THE HOUSE**Formal Business Notices of Motions**

Private Members' Business item No. 90 outside the Order of Precedence objected to as being taken as formal business.

BLOC 1706 NINTH ANNIVERSARY**Motion by the Hon. DAVID CLARKE agreed to:**

- (1) That this House notes that:
 - (a) on Friday 5 June 2015 a celebratory dinner attended by 400 members of the Vietnamese community was held at Canley Heights to celebrate the ninth anniversary of Bloc 1706, an organisation dedicated to the cause of human rights in Vietnam;
 - (b) the function was jointly hosted by Vietnam Sydney Radio and Bloc 1706;
 - (c) Bloc 1706 was founded by leading members of the Vietnamese Australian community; and
 - (d) those who attended the anniversary dinner included:
 - (i) the Hon. Phillip Ruddock, MP, Federal member for Berowra;
 - (ii) Mr Chris Hayes, MP, Federal member for Fowler;
 - (iii) Mr Craig Kelly, MP, Federal member for Hughes;
 - (iv) the Hon. David Clarke, MLC, Parliamentary Secretary for Justice;
 - (v) Mr Jack Lake, President of the Vietnam War Veterans Association;
 - (vi) Blue Mountains Branch and other association members; and
 - (vii) community and civic leaders of the Vietnamese-Australian community.
- (2) That this House:
 - (a) congratulates members of Bloc 1706 on the occasion of the ninth anniversary of its foundation and its ongoing support of human rights in Vietnam; and
 - (b) commends the Vietnamese Australian community for its ongoing and positive contribution to the State of New South Wales.

AUSTRALIAN LEBANESE CHAMBER OF COMMERCE ANNUAL AWARDS DINNER**Motion by the Hon. SHAOQUETT MOSELMANE agreed to:**

- (1) That this House notes that:
 - (a) on Friday 31 July 2015, the Australian Lebanese Chamber of Commerce held its signature event, the annual awards dinner, at Doltone House, Darling Island Wharf;
 - (b) the event was well attended with over 800 guests, including His Excellency George Bitar Ghanem, Consul General of Lebanon, the Hon. Mike Baird, MP, Premier, a host of members of Parliament, many dignitaries and a broad cross section of business and community leaders;
 - (c) the dinner was sponsored by Property Investors Alliance, and proudly supported by the Chamber's principal partners, Arab Bank Australia and Etihad Airways; and
 - (d) the Chamber has served the Australian businesses and the New South Wales economy with distinction, promoting economic growth, development and trade between Australia and Lebanon with New South Wales being the key beneficiary.
- (2) That this House notes that:
 - (a) the Australian Lebanese Chamber of Commerce was initiated by the late Jean Alpha, Consul General of Lebanon, and formed on the 12 August 1985 by foundation president Joseph Gazal, foundation secretary Rick Mitry, foundation treasurer Richard Bobb, and foundation board members Nicholas Aboud, Nicholas Avramides, John David, Samir el-Khalil, Ronald Ralph Gray and Karim Kisrwni; and

- (b) the current 2014-2015 board includes Joe Khattar, AM, President, Michael Rizk, Trade Relations, Michael Murr, Treasurer, Nadia Obeid, Secretary, Salim Nicolas, 1st Vice President, Dr Anthony Hasham, 2nd Vice President, Joe Rizk, OAM, Director—Financial Matters and that the board directors are Michael Symond, Danny Arraj, Elie Touma, Peter Semaan, Peter Bader, Adam Malouf, Fred Deiri and Dany Nicolas.
- (3) That this House congratulates all the foundation board members of the Australian Lebanese Chamber of Commerce right through to the current board and its president, Joe Khattar, AM, for their three decades of dedication and service to the people of New South Wales.

UNIVERSITY OF NEWCASTLE FIFTIETH YEAR OF AUTONOMY

Motion by Mr SCOT MACDONALD agreed to:

- (1) That this House notes that:
 - (a) the University of Newcastle celebrated its fiftieth year of autonomy from the University of New South Wales with a week of festivities held from 3 to 7 August 2015;
 - (b) on Monday 3 August 2015, the Governor of New South Wales, His Excellency General the Hon. David Hurley AC DSC (Ret'd) was guest speaker at the university to mark the 50 year autonomy celebrations;
 - (c) the event included distinguished guests from the Hunter community, distinguished guests from the Awabakal people, university council members, staff and students including the Chancellor of the University of Newcastle, Mr Paul Jeans, the Vice-Chancellor of the University of Newcastle, Professor Caroline McMillan; and
 - (d) the Hon. Scot MacDonald was joined at the event by political representatives, including the Federal member for Newcastle, Ms Sharon Calydon, MP, State member for Newcastle, Mr Tim Crakanthorp, MP, State member for Port Stephens, Ms Kate Washington, MP, and Mayor of Newcastle City Council, Councillor Nuatalie Nelmes.
- (2) That this House notes that:
 - (a) the University of Newcastle was proclaimed on 1 January 1965; and
 - (b) the University of Newcastle is today a thriving institution with 2,500 staff and approximately 40,000 students.
- (3) That this House congratulates the University of Newcastle academic staff, general staff and the students of the University of Newcastle on attaining its fiftieth year of autonomy, and now ranking as one of Australia's premier universities.

NSW COUNCIL FOR INTELLECTUAL DISABILITY CONFERENCE

Motion by the Hon. SOPHIE COTSIS agreed to:

- (1) That this House notes that:
 - (a) on 16 and 17 July 2015 the NSW Council for Intellectual Disability held its "We are worth the investment" conference at Waterview in Bicentennial Park;
 - (b) the conference provided an opportunity to consider how the National Disability Insurance Scheme will affect people with intellectual disability;
 - (c) the conference was attended by people with intellectual disability, family members, professionals, advocates and disability service providers; and
 - (d) the conference heard from people with intellectual disability, advocates, the National Disability Insurance Agency, disability service providers, academics and policy makers about how the National Disability Insurance Scheme is working so far and what should happen next.
- (2) That this House congratulates the NSW Council for Intellectual Disability on its efforts to organise this conference and its continuing advocacy on behalf of people with intellectual disability.

BUSINESS OF THE HOUSE

Formal Business Notices of Motions

Private Members' Business item No. 256 outside the Order of Precedence objected to as being taken as formal business.

PARKINSON'S NSW**Motion by the Hon. PETER PRIMROSE agreed to:**

- (1) That this House notes that:
 - (a) Parkinson's disease is a neuro-degenerative condition with four key symptoms: slowness of movement, muscle rigidity, tremors and problems with balance and gait;
 - (b) there is no known cause, cure or treatments that address the underlying disease process and while treatments and therapies can assist with symptom management, ultimately Parkinson's disease is a life-limiting disease;
 - (c) over 3,000 deaths per year are associated with Parkinson's disease;
 - (d) there are estimated to be some 80,000 Australians living with Parkinson's disease, of which 20 per cent are of working age and 10 per cent were diagnosed under the age of 40;
 - (e) a diagnosis can occur at any age with the most common age of diagnosis being over 50 years of age;
 - (f) Parkinson's NSW provides a range of valuable resources to the entire Parkinson's community, and supports people with Parkinson's and their families;
 - (g) Parkinson's NSW holds a number of key events each year to help raise awareness and provide education about Parkinson's and the organisation's key fundraising and awareness event will be the Unity Walk and Run, held on Sunday 30 August 2015 at Sydney Olympic Park; and
 - (h) funds raised by the Unity Walk and Run will go to support services and research, and details of the event and how to donate to Parkinson's NSW are available on the organisation's website: www.parkinsonsnsw.org.au.
- (2) That this House congratulates Parkinson's NSW for its dedication and hard work in helping people with Parkinson's and their families.

BUSINESS OF THE HOUSE**Formal Business Notices of Motions**

Private Members' Business item No. 261 outside the Order of Precedence objected to as being taken as formal business.

WORLD RANGER DAY 2015**Motion by Dr MEHREEN FARUQI agreed to:**

- (1) That this House notes that:
 - (a) 31 July 2015 was World Ranger Day, which is held to celebrate park rangers and the work they do to protect the world's natural and cultural treasures, and the many rangers killed or injured in the line of duty;
 - (b) the World Ranger Day 2015 Ranger Roll of Honour records the name of park rangers around the world who have lost their lives on the job protecting our environment;
 - (c) in 2015, at least 52 rangers around the world have died in the line of duty, including in Thailand, Burma, India, Uganda, France, Italy, the United States and Australia; and
 - (d) Office of Environment and Heritage Officer Mr Glen Turner is included on this list, in memory of his service to the environment.
- (2) That this House:
 - (a) recognises the massive contribution rangers make to the protection of the environment and the risks they take in doing so; and
 - (b) calls for greater support for the crucial work park rangers undertake on the front line of conservation.

ORTHODOX CHURCH INTERFAITH LUNCHEON**Motion by the Hon. DAVID CLARKE agreed to:**

- (1) That this House notes that:
 - (a) on Sunday 2 August 2015 approximately 600 representatives and members of a wide spectrum of Orthodox Christian churches with a presence in the Liverpool local government area attended an Orthodox interfaith luncheon at the Liverpool Catholic Club hosted by the mayor and councillors of Liverpool City Council;

- (b) also present were representatives of various non-Orthodox Christian communities and non-Christian faith traditions;
- (c) those who attended as representatives of Liverpool City Council comprised:
 - (i) Councillor Ned Mannoun, mayor of Liverpool City Council;
 - (ii) Councillor Gus Balloot, deputy mayor of Liverpool City Council;
 - (iii) Councillor Peter Ristevski, who moved the council resolution that an Orthodox interfaith luncheon be held;
 - (iv) Councillor Sabrina Mamone; and
 - (v) Councillor Geoff Shelton.
- (d) those who attended as guests included:
 - (i) Archbishop Paul Saliba of the Antiochian Orthodox Church in Australia, New Zealand and the Philippines;
 - (ii) Bishop Peter of the Macedonian Church, Diocese of Australia and New Zealand;
 - (iii) Father Alexander Milutinovic, representing the Serbian Orthodox Church;
 - (iv) Senator the Hon. Concetta Fierravanti-Wells, Parliamentary Secretary to the Attorney-General and Parliamentary Secretary to the Minister for Social Services, representing the Hon. Tony Abbott, MP, Prime Minister of Australia;
 - (v) Mr Craig Kelly, MP, Federal member for Hughes;
 - (vi) Ms Melanie Gibbons, MP, member for Holsworth, representing the Hon. Mike Baird, MP, Premier,
 - (vii) the Hon. David Clarke, MLC, Parliamentary Secretary for Justice;
 - (viii) Mr Branislav Grbic, Consul for the Consulate-General for Serbia in Sydney; and
 - (ix) lay representatives of various Orthodox churches, non-Orthodox churches and non-Christian faith traditions.
- (2) That this House:
 - (a) commends the Liverpool City Council on its initiative in hosting this Orthodox Church interfaith luncheon; and
 - (b) extends its greetings and best wishes to those who participated in this event promoting interfaith harmony.

KARUAH WORKING TOGETHER GROUP

Motion by Mr SCOT MACDONALD agreed to:

- (1) That this House:
 - (a) congratulates the Karuah Working Together group on its successful application for \$1,600 of funding under the Government's Cultural Grants program; and
 - (b) notes that Karuah Working Together will utilise the grant of \$1,600 to publish a book entitled *The Branch* to preserve the history of the community and its origins as a timber milling village from 1870 to 1937.
- (2) That this House thanks Ms Benita Parker and the hardworking members of Karuah Working Together for their long standing contribution to the recording of the history of Karuah.

VHP SANSKRIT LANGUAGE SCHOOL ANNUAL DAY 2015

Motion by the Hon. DAVID CLARKE agreed to:

- (1) That this House notes that:
 - (a) on Saturday 8 August 2015, the VHP Sanskrit Language School Annual Day was held at Castle Hill and attended by several hundred students of the school, their relatives, friends and guests;
 - (b) the events included a program in the Sanskrit language of music, poetry, drama and comedy performances, together with Vedic chanting, promoting character building values;

- (c) those who attended as guests included:
- (i) Mr Ray Williams, MP, member for Castle Hill, Parliamentary Secretary to the Premier for Western Sydney, representing the Hon. John Ajaka, MLC, Minister for Ageing, Minister for Disability Services and Minister for Multiculturalism;
 - (ii) the Hon. Sophie Cotsis, MLC, Shadow Minister for Ageing, Shadow Minister for Disability Services and Shadow Minister for Multiculturalism;
 - (iii) the Hon. David Clarke, MLC, Parliamentary Secretary for Justice;
 - (iv) Mr Arivinder Singh Ranga, representing the Consul General of India, Mr Sunjay Sudhir;
 - (v) Mrs Reena Jethi, representing the Hon. David Elliott, MP, Minister for Corrections, Minister for Emergency Services, and Minister for Veterans Affairs;
 - (vi) Councillor Gurdeep Singh Ji, Deputy Mayor of Hornsby City Council;
 - (vii) Councillor Lisa Lake of Holroyd Council;
 - (viii) Councillor Raj Datta of Strathfield City Council;
 - (ix) Mr Rajendra Pandey, president of VHP, South Australia;
 - (x) Mr Rajesh Venkataramaiah, president of Sewe Australia;
 - (xi) Mr Bhupinder Chibber, president of the Global Organisation of People of Indian Origin;
 - (xii) Mr Dave Passi, secretary of the United India Association;
 - (xiii) Mr Raj Natarajan of OZ Indian TV;
 - (xiv) Mr Mahesh Mishra, director of Vedic Maths Association;
 - (xv) Mr Venkatarama Sastrigal, Hindu and Sanskrit Priest;
 - (xvi) Mr Ravi Gurukkal, Hindu and Sanskrit Priest;
 - (xvii) Mr Radha Krishna Sharma, chairperson of Divine Life Society Australia;
 - (xviii) Mr Raj Sekar, director of On Dot Sound Systems;
 - (xix) Mrs Dayavawathi Pandley, Sanskrit teacher at VPH Australia, Adelaide;
 - (xx) Mrs Rani Sundar, senior volunteer; and
 - (xxi) Mrs Kavitha Jeevan, long-time volunteer.
- (d) the VHP Sanskrit School, now comprising nine branches in the Sydney metropolitan region, was founded 13 years ago by Vishva Hindu Parishad Inc. and is part of the NSW Department of Education Community Language Program, conducted by the NSW Federation of Community Language Schools; and
- (e) the Sanskrit language is one of the world's oldest languages and forms the basis of many other languages and is noted for its cultural, religious and scientific use in a similar way as Ancient Greek and Latin.

(2) That this House:

- (a) commends Vishva Hindu Parishad Inc. for its ongoing work and achievements relating to the VHP Sanskrit Language School and in particular:
- (i) Mrs Sasraswathi Sashi, founding member of the VHP Sanskrit School;
 - (ii) Mr R. Subramanian, JP, senior Veda and Sanskrit teacher;
 - (iii) Mrs Amita Saxena, senior Sanskrit teacher; and
 - (iv) Mrs Akila Ramarathinam who has promoted branches of the school in Victoria, Queensland and South Australia.
- (b) congratulates the students and volunteers of the school for a successful Sanskrit Language School Annual Day 2015.

WORLD DAY AGAINST TRAFFICKING IN PERSONS 2015**Motion by the Hon. PAUL GREEN agreed to:**

- (1) That this House notes that 30 July 2015 is World Day Against Trafficking in Persons.
- (2) That this House notes that:
 - (a) human trafficking is a crime that exploits women, children and men for numerous purposes, including forced labour and sex;
 - (b) the International Labour Organisation estimates that 21 million people are victims of forced labour globally, including victims of human trafficking for labour and sexual exploitation;
 - (c) every country in the world is affected by human trafficking, whether as a country of origin, transit or destination for victims;
 - (d) in 2010, the General Assembly of the United Nations adopted the Global Plan of Action to Combat Trafficking in Persons, urging governments worldwide to take coordinated and consistent measures to defeat this scourge; and
 - (e) in 2013, member States designated 30 July as the World Day against Trafficking in Persons to "raise awareness of the situation of victims of human trafficking and for the promotion and protection of their rights".
- (3) That this House:
 - (a) condemns human trafficking in all its forms;
 - (b) calls upon the Government to:
 - (i) commit to a definitive plan of action by 2019 to address human trafficking in New South Wales; and
 - (ii) establish a State-based hotline by 2016 to report human trafficking.
 - (c) commends all political parties who work towards the common goal to eliminate human trafficking.

NATIONAL DAY OF THE REPUBLIC OF CROATIA**Motion by the Hon. DAVID CLARKE agreed to:**

- (1) That this House notes that:
 - (a) on 27 June 2015 several hundred members and friends of the Croatian Australian community held a celebration at the King Tomislav Croatian Club, Edensor Park, to mark the National Day of the Republic of Croatia, which falls on 25 June each year;
 - (b) the event was hosted by the United Croatian Clubs of NSW and the Croatian Australian Community Council, together with the Consulate General of the Republic of Croatia, Sydney; and
 - (c) guests in attendance at the celebration included:
 - (i) the Hon. David Clarke, MLC, Parliamentary Secretary for Justice, representing the Hon. Mike Baird, MP, Premier and the Hon. John Ajaka, MLC, Minister for Multiculturalism, Minister for Ageing and Minister for Disability Services;
 - (ii) Ms Michelle Rowland, MP, Federal member for Greenway, Shadow Minister for Citizenship and Multiculturalism, Shadow Assistant Minister for Communication, representing the Hon. Bill Shorten, MP, Federal Leader of the Opposition;
 - (iii) Mr Nick Lalich, MP, member for Cabramatta, representing Mr Luke Foley, MP, Leader of the Opposition;
 - (iv) Mr Chris Hayes, MP, Federal member for Fowler, Chief Opposition Whip;
 - (v) Mr Hrvoje Petrusic, Consul General of the Republic of Croatia for NSW, Queensland and the Northern Territory;
 - (vi) Councillor Mirjana Cestar of City of Canada Bay Council, representing the Hon. David Elliott, MP, member for Baulkham Hills, Minister for Corrections, Minister for Emergency Services and Minister for Veterans Affairs;
 - (vii) Mrs Tanya Davies, MP, member for Mulgoa, Parliamentary Secretary for Youth Affairs and Homelessness;

- (viii) Mr Guy Zangari, MP, member for Fairfield;
 - (ix) Dr Hugh McDermott, MP, member for Prospect;
 - (x) Councillor Frank Carbone, Mayor of Fairfield City Council;
 - (xi) Councillor Con Hindi, Mayor of Hurstville City Council;
 - (xii) Councillor Karlo Siljeg of Blacktown City Council, representing the mayor, Councillor Stephen Bali;
 - (xiii) Mr Stepan Kerkyasharian AO, president of the Anti-Discrimination Board of NSW;
 - (xiv) Mr Hakan Harman, chief executive officer of Multicultural NSW;
 - (xv) Mr David Knoll, AM, advisory board member of Multicultural NSW, councillor of the Executive Council of Australian Jewry and Director of the Council for Jewish Community Security [NSW];
 - (xvi) Reverend Father Smiljan Berisic of St John's Park Croatian Catholic Church; and
 - (xvii) representatives of various Croatian cultural, religious and community organisations.
- (2) That this House extends its best wishes to the Republic of Croatia and the Croatian Australian community on the occasion of Croatia's National Day 2015.

MULTICULTURAL EID FESTIVAL AND FAIR

Motion by Dr MEHREEN FARUQI agreed to:

- (1) That this House notes that:
- (a) on 2 August 2015 the Multicultural Eid Festival and Fair was held at Fairfield Showground;
 - (b) the festival is timed to celebrate Eid-al-Fitr, which marks the end of the holy month of Ramadan for Muslims across the world; and
 - (c) the festival is now in its thirty-first year of operation, and is a vibrant celebration of multiculturalism in New South Wales.
- (2) That this House congratulates the festival organisers for their ongoing success in facilitating and promoting such a large and important event.
- (3) That this House wishes Muslims across New South Wales, "Eid Mubarak!"

WYONG DISTRICT MUSEUM AND HISTORICAL SOCIETY

Motion by Mr SCOT MACDONALD agreed to:

- (1) That this House:
- (a) congratulates the Wyong District Museum and Historical Society on its successful application for \$1,700 of funding under the Government's Cultural Grants program; and
 - (b) notes that the Wyong District Museum and Historical Society will utilise the grant of \$1,700 to publish a book that will highlight and nurture an interest in Wyong Shire.
- (2) That this House thanks Mr Max Farley and the hardworking members of the Wyong District Museum and Historical Society for their longstanding contribution to recording the history of Wyong Shire.

SERBIAN FOLKLORIC FESTIVAL

Motion by the Hon. DAVID CLARKE agreed to:

- (1) That this House notes that:
- (a) on 7, 8 and 9 August 2015, the twenty-ninth annual Serbian Folkloric Festival was held at the Bonnyrigg Sports Club, also known as the Serbian Centre Club, with the purpose of celebrating and preserving the folkloric heritage and culture of the Serbian Australian community, and was attended by approximately 10,000 people;
 - (b) the Folkloric Festival is the single largest Serbian event held in Australia and the Bonnyrigg Sports Club is the largest Serbian Club in Australia;

- (c) those who comprised the Organising Committee of the festival were:
 - (i) Mr Nikola Maric, president of the Bonnyrigg Sports Club;
 - (ii) Mr Milenko Bajic, sports club committee member;
 - (iii) Mr Ned Bogicevic, sports club committee member;
 - (iv) Mr Jovo Cubrilo, sports club committee member;
 - (v) Ms Dee Zeljkovic, general manager of the club;
 - (vi) Ms Gordana Mijatovic and members of the Folkloric Committee; and
 - (vii) Mr John Pavasovic, president of the Movement of Serbian Chetniks, Ravna Gora and sports club committee member.
- (d) those who attended as guests included:
 - (i) Mr Craig Kelly, MP, Federal member for Hughes, representing the Hon. Tony Abbott, MP, Prime Minister of Australia;
 - (ii) His Grace, Bishop Irinej, Bishop of the Serbian Orthodox Metropolitanate of Australia and New Zealand;
 - (iii) Mr Brislav Grbic, Serbian Consul General representing Mr Branko Radosevic, Consul-General of the Republic of Serbia;
 - (iv) Mr Paul Lynch, MP, member for Liverpool and Shadow Attorney General;
 - (v) the Hon. David Clarke, MLC, Parliamentary Secretary for Justice;
 - (vi) Mr Nick Lalich, MP, member for Cabramatta;
 - (vii) Councillor Frank Carbone, Mayor of Fairfield City Council; and
 - (viii) Reverend Fathers of the Serbian Orthodox Church and other Serbian community leaders.
- (2) That this House:
 - (a) congratulates the organisers of and participants in the twenty-ninth annual Serbian Folkloric Festival; and
 - (b) extends its greeting and best wishes to the Serbian Australian community for its ongoing and positive contribution to the State of New South Wales.

NEWCASTLE STATE EMERGENCY SERVICE STORM TRUCK

Motion by Mr SCOT MACDONALD agreed to:

That this House notes that:

- (a) on Wednesday 22 July 2015, Mr Scot MacDonald represented the Minister for Emergency Services, the Hon. David Elliott, MP, at a ceremony at the City of Newcastle State Emergency Service [SES] unit to deliver a new storm truck;
- (b) the ceremony was attended by volunteers from SES units across the Hunter, Ms Sharon Clayton, MP, the Federal member for Newcastle, Mr Tim Crakanthorp, MP, member for Newcastle, Councillor Nuatali Nemes, Mayor of the City of Newcastle, State Emergency Services Commissioner Mr Adam Dent and Hunter Regional Controller Amanda Wilson;
- (c) at the ceremony, Mr Scot MacDonald handed over the keys of a new SES medium storm truck to the unit commander of the City of Newcastle SES, Mr Jim McArthur; and
- (d) it is fitting that the truck was allocated to the Hunter after the exceptional work the SES undertook in April this year, which was the biggest operation in the organisation's history.

CENTENARY OF ASSYRIAN GENOCIDE

Motion by the Hon. DAVID CLARKE agreed to:

(1) That this House notes that:

- (a) on Friday 7 August 2015 the centenary of the Assyrian Genocide was commemorated at a ceremony held at the Nineveh Reception Centre, Edensor Park, and attended by in excess of 600 members and friends of the Assyrian Australian community;

- (b) the event was organised by the Assyrian Universal Alliance, the Young Assyrians and the Assyrian Australian National Federation under the patronage of His Beatitude Mar Meelis Zaia, AM, Metropolitan of the Assyrian Church of the East in Australia, New Zealand and Lebanon, and opened with a procession of Australian and Assyrian flags and a candle laying ceremony by students of Saint Hurmizd Assyrian Primary School and Saint Narsai Assyrian Christian College;
- (c) those who spoke at the function included:
- (i) His Beatitude Mar Meelis Zaia, AM, Metropolitan of the Assyrian Church of the East in Australia, New Zealand and Lebanon;
 - (ii) Mr Hermiz Shahan, deputy secretary of the Assyrian Universal Alliance;
 - (iii) Miss Susan George, Young Assyrians;
 - (iv) Mr David David, president of the Assyrian Australian National Federation;
 - (v) the Hon. David Clarke, MLC, Parliamentary Secretary for Justice, representing the Hon. Mike Baird, MP, Premier of New South Wales and the Hon. John Ajaka, MLC, Minister for Ageing, Minister for Disability Services and Minister for Multiculturalism;
 - (vi) Mr Guy Zangari, MP, member for Fairfield, Shadow Minister for Trade, Major Events, Sport, Corrections, Emergency Services and Veterans Affairs, representing the Hon. Luke Foley, MP, Leader of the Opposition;
 - (vii) Mrs Tanya Davies, MP, member for Mulgoa, Parliamentary Secretary for Youth Affairs and Homelessness;
 - (viii) the Hon. Chris Bowen, MP, Federal member for McMahon, Shadow Treasurer, representing the Hon. Bill Shorten, MP, Leader of the Federal Opposition;
 - (ix) Reverend the Hon. Fred Nile, MLC, Assistant President of the Legislative Council of New South Wales;
 - (x) the Hon. Philip Ruddock, MP, Federal member for Berowra;
 - (xi) Mr Craig Kelly, MP, Federal member for Hughes;
 - (xii) Mr Hugh McDermott, MP, member for Prospect;
 - (xiii) Dr Panayotis Diamadis, director of the Australian Institute for Holocaust and Genocide Studies at the University of Technology;
 - (xiv) Dr Anahit Khosroeva, senior researcher at the Institute of History, National Academy of Science, Republic of Armenia;
 - (xv) Mr Ninos Aaron, master of ceremonies;
 - (xvi) Miss Breteil Tigris, Presbyterian Ladies College; and
 - (xvii) Mr Esho Dinkha, Assyrian Diqlat School.
- (d) in addition to the list of speakers, those who attended as guests included:
- (i) His Grace Archbishop Amel Shamon Nona, Bishop of the Chaldean Catholic Church in Australia and New Zealand;
 - (ii) Very Reverend Father Shenouda Mansour, General Secretary of the NSW Ecumenical Council;
 - (iii) Senator the Hon. Concetta Fierravanti-Wells, Federal Parliamentary Secretary to the Attorney-General and Parliamentary Secretary to the Minister for Social Services;
 - (iv) Councillor Frank Carbone, mayor of Fairfield City Council;
 - (v) Superintendent Peter Lennon, Fairfield Commander of Police;
 - (vi) Mr Valos Oreopoulos, Consul of Greece for Economic and Commercial, representing Dr Stavros Kyrimis, Consul General for Greece in Sydney;
 - (vii) Sister Elizabeth Delaney, General Secretary of the National Council of Churches;
 - (viii) Dr Racho Donef;
 - (ix) Councillor George Barcha, Fairfield City Council;

- (x) Councillor Joe Molluso, Fairfield City Council;
 - (xi) Councillor Naji Peter Najjar, Bankstown City Council;
 - (xii) Mrs Karen Bos, representing Christian Faith and Freedom; and
 - (xiii) representatives of the Greek, Armenian, Vietnamese, Jewish and Assyrian communities.
- (2) This House extends its condolences to the Assyrian-Australian community on the occasion of its commemoration of the centenary of the Assyrian Genocide and commends the community's ongoing and positive contribution to the State of New South Wales.

INDIA CLUB AND ELDERLY RIGHTS AND SUPPORT FORUM

Motion by the Hon. DAVID CLARKE agreed to:

- (1) That this House notes that:
- (a) on Sunday 14 June 2015 the India Club Inc. organised an Elderly Rights and Support Forum at the Epping Leisure and Learning Centre in co-operation with the NSW Police Force and with the support of the Hills Domestic Violence Prevention Committee to coincide with World Elder Abuse Awareness Day on 15 June 2015;
 - (b) the forum highlighted and examined the issue of abuse of the elderly and heard presentations from a number of experts, including:
 - (i) Police Superintendent Robert Critchlow, commander of the Hills Local Area Command;
 - (ii) Police Superintendent Frank Gilroy, commander of the Hornsby Local Area Command;
 - (iii) Senior Police Constable Michael McDonnell, vulnerable community support officer of the Hills Local Area Command;
 - (iv) Ms Kerry Marshall, senior consultant, NSW Elderly Abuse Helpline Resource Unit;
 - (v) Ms Nalika Padmasena, solicitor, Aged Care Rights Services, Inc.;
 - (vi) Mrs Omila Bir, occupational therapist;
 - (vii) Mr Jay Raman, Om Care, which manages several day care centres for the elderly; and
 - (viii) Mrs Shubha Kumar, founder of the India Club Inc.
 - (c) attendees at the forum included:
 - (i) the Hon. David Elliott, MP, Minister for Corrections, Emergency Services and Veterans Affairs;
 - (ii) the Hon. Philip Ruddock, MP, Federal member for Berowra;
 - (iii) Mr Damien Tudehope, MP, member for Epping;
 - (iv) the Hon. David Clarke, MLC, Parliamentary Secretary for Justice and Mrs Marisa Clarke;
 - (v) members of Soroptimist International of the Hills District Inc.;
 - (vi) members of the Zonta Club of Sydney Hills Inc.; and
 - (vii) representatives of a number of ethnic community organisations.
- (2) That this House commends the India Club Inc., its founder president Mrs Shubha Kumar, Mr Aksheya Kumar, chairman and committee members for their initiative in organising a community forum on the issue of elderly rights and support their work and active ongoing interest in this important issue.

UNPROCLAIMED LEGISLATION

The Hon. Niall Blair tabled a list detailing all legislation unproclaimed 90 calendar days after assent as at 11 August 2015.

PETITIONS

Shark Finning

Petition calling on the Government to ban the practice of shark finning, to maintain Australia's marine ecosystems and to support legislation to prohibit commercial preparation of shark fins in restaurants, received from **Dr Mehreen Faruqi**.

BUSINESS OF THE HOUSE**Routine of Business**

[During the giving of notices of motions.]

The Hon. John Ajaka: You know that is happening. You did not even want us to commence it in Penrith; you tried to stop us.

The Hon. SOPHIE COTSIS: It is not a criticism of you—glass jawitis.

The PRESIDENT: Order! I will rule the motion out of order if the Hon. Sophie Cotsis keeps responding to interjections. I remind the Minister that it is disorderly to interrupt a member during the giving of a notice of motion.

BUSINESS OF THE HOUSE**Postponement of Business**

Business of the House Notice of Motion No. 1 postponed on motion by Mr David Shoebridge, on behalf of Dr John Kaye, and set down as an order of the day for a future day.

GENERAL PURPOSE STANDING COMMITTEE NO. 3**Reference: Registered Nurses in New South Wales Nursing Homes**

Ms JAN BARHAM: I inform the House that in accordance with the resolution of the House relating to the establishment of committees, the General Purpose Standing Committee No. 3 resolved on Thursday 25 June 2015 to adopt the following reference:

That General Purpose Standing Committee No. 3 inquire into and report on registered nurses in New South Wales nursing homes and, in particular:

- (1) The need for registered nurses in nursing homes and other aged care facilities with residents who require a high level of residential care, in particular:
 - (a) the impact of amendments to the Aged Care Act 1997 by the Aged Care (Living Longer Living Better) Act 2013 on the requirement under section 104 of the Public Health Act 2010 to have a registered nurse on duty at all times in a nursing home and in particular:
 - (i) the impact this has had on the safety of people in care;
 - (ii) the possibility for cost shifting onto other parts of the public health system as a result of any legislative or regulatory change to the current provisions;
 - (b) the requirement for a registered nurse to be on duty in a nursing home at all times as compared with requirements in aged care hospital wards;
 - (c) the administration, procurement, storage and recording of administration of medication by non-registered nurses in nursing homes and other aged care facilities with residents who require a high level of residential care as compared with hospital clinical settings; and
 - (d) the role of registered nurses in responding to critical incidents and preventing unnecessary hospital admissions.
- (2) The need for further regulation and minimum standards for assistants in nursing and other employees or carers with similar classifications.
- (3) The adequacy of nurse-patient ratios in nursing homes and other aged care facilities with residents who require a high level of residential care.
- (4) The report by the New South Wales Aged Care Steering Committee.
- (5) Any other related matter.

BUSINESS OF THE HOUSE**Postponement of Business**

Government Business Notice of Motion No. 1 adjourned on motion by the Hon. Niall Blair and set down as an order of the day for a later hour.

CRIMES (SENTENCING PROCEDURE) AMENDMENT (FIREARMS OFFENCES) BILL 2015**Second Reading****Debate resumed from 11 August 2015.**

The Hon. ADAM SEARLE (Leader of the Opposition) [11.38 a.m.]: As I indicated in my earlier contribution to the second reading debate on the Crimes (Sentencing Procedure) Amendment (Firearms Offences) Bill 2015, the evidence about sentences being increased under standard non-parole periods [SNPPs] is not entirely clear. As the Sentencing Council notes, there has been no real assessment of sentencing trends made available since the High Court's decision in Muldrock. Some work was done and recorded by the Judicial Commission in 2010 on pre-Muldrock sentencing patterns, but that was on a limited data sample.

As the NSW Bureau of Crime Statistics and Research reminded us in March, sentences are increasing regardless of whether standard non-parole periods are involved. What this legislation represents and can be realistically expected to achieve is, hopefully, not tougher or harsher sentences but sentences that are more consistent and coherent, which is the premise of the Sentencing Council report. It is the stated basis of the bill. For those reasons, the Opposition supports the legislation.

This bill results from a careful consideration of SNPPs in the Sentencing Council report. Some of the recommendations were adopted in the recent Crimes Legislation Amendment (Child Sex Offences) Bill 2015. Several other recommendations have not yet been acted upon by the Government. This bill does not represent a crackdown by the Government. The recommendations included a range of criminal offences and were not limited to gun crime. This legislation is entirely directed to achieving greater consistency in sentencing rather than simply harsher or stiffer penalties. With those comments, the Opposition supports the legislation.

The Hon. ROBERT BORSAK [11.41 a.m.]: I lead for the Shooters and Fishers Party and am pleased to speak to the Crimes (Sentencing Procedure) Amendment (Firearms Offences) Bill 2015. I indicate from the outset that the Shooters and Fishers Party supports the bill. We are committed to improving sentencing for gun-related crime. These crimes are unacceptable and represent some of the most serious offences. However, we do not support the notion that this bill delivers on the Government's pre-election commitment to improve sentencing for gun-related crime. In our opinion, the bill fails to deliver the most appropriate approach to gun-related crime in New South Wales. The Attorney General, Gabrielle Upton, correctly pointed out in her second reading speech that:

People want, and are entitled, to be safe and secure in their homes and communities. Guns and weapons are used by criminals as tools in their illicit trade. For too long, the community has felt that violent, serious criminals have been getting off too lightly for owning or using a firearm or weapon, or committing drive-by shootings.

I agree with those sentiments. Indeed, the citizens of New South Wales are entitled to expect a standard of safety and security within their own homes and the broader community in general. In more recent times, however, this expectation has been negated and left wanting as a result of the Government's inability to enforce strict and mandatory punishments for such crimes. In 2013 the Government commissioned the NSW Sentencing Council to review the operation of the standard non-parole period scheme. Its findings and recommendations in the report have laid the foundation for this bill.

The bill, if passed, will establish standard non-parole periods for five serious firearm offences that were not previously a part of that scheme. Those offences and their corresponding standard non-parole periods are: first, discharging a firearm with intent to cause grievous bodily harm under section 33A (1) of the Crimes Act 1900 with a standard non-parole period of nine years; secondly, discharging a firearm with intent to resist arrest or detention under 33A (2) of the Firearms Act 1900 with a standard non-parole period of nine years; thirdly, discharging a firearm at a dwelling house or other building with reckless disregard for the safety of any person under section 93GA (1) of the Crimes Act 1900 with a standard non-parole period of five years; and, fourthly,

discharging a firearm during a public disorder at a dwelling house or other building with reckless disregard for the safety of any person under section 93GA (1A) of the Crimes Act 1900 with a standard non-parole period of six years.

The last offence is discharging a firearm in the course of an organised criminal activity at a dwelling house or other building with reckless disregard for the safety of any person under section 93GA (1B) of the Crimes Act 1900, which has a standard non-parole period of six years. Furthermore, the bill seeks to increase the existing standard non-parole periods for two other offences. The first is for the offence of unauthorised possession and use of a firearm or pistol under section 7 of the Firearms Act 1996 from three years to four years. The second is for the offence of unauthorised possession or use of a prohibited firearm under section 7 of the Weapons Prohibition Act 1988 from three years to five years.

The Shooters and Fishers Party does not believe that the bill represents the best approach in eliminating or, at the very least, minimising gun-related crime in our community. Despite this, it is clear that the Government is determined to enact this bill and, as such, we propose a number of amendments to this bill. We believe our amendments more closely reflect community expectations on such issues, particularly the special need for deterrence of such serious and senseless crimes. The amendments seek to increase the standard non-parole periods for all offences referred to in the bill. I refer members to recommendation 4.1 made by the NSW Sentencing Council in its report, which stipulates:

The process for specifying an SNPP for an SNPP offence should assume as a starting point a non-parole period that is 37.5% of the maximum penalty of the offence. The resulting figure can then be reduced or increased (to no more than 50% of the maximum penalty for the offence) as is appropriate, having regard to the following matters ...

In line with this recommendation, the Shooters and Fishers Party seeks to implement a standard non-parole period on all offences identified in the bill to 50 per cent of the maximum penalty of said offences. The NSW Sentencing Council report armed the Government with the option of implementing a standard non-parole period that represents 50 per cent of the maximum penalty of the offence. Instead the Government has opted to implement the lower percentage figure recommended by the Sentencing Council of 37.5 per cent in respect to firearms offences identified in this bill. It would appear that all the Government has done in setting the standard non-parole periods for the offences listed in schedule 1 to this bill and increasing the existing standard non-parole periods for offences listed in schedule 2 is select the figure closest to 37.5 per cent of the maximum penalty for those offences.

The question remains: Why would we not set the standard non-parole period for these serious firearm—related offences at the highest point recommended by the NSW Sentencing Council, which is 50 per cent of the maximum penalty of the offences mentioned? This is particularly concerning, given the special need for the deterrence of these crimes and the need to recognise the exceptional harm that may be occasioned to victims. The use and effectiveness of the standard non-parole period scheme on sentencing has been the subject of considerable inquiry and debate in and outside the legal fraternity.

In 2010 the Judicial Commission of NSW released a report into the impact of the standard non-parole period sentencing scheme on the sentencing patterns of New South Wales. The Judicial Commission compared sentences imposed before and after the introduction of the standard non-parole period legislation. Of particular note, the Judicial Commission investigated whether the use of full-time imprisonment has increased, whether the length of non-parole periods and head sentences has increased and whether greater consistency in sentencing has been achieved. The Judicial Commission also examined appeal results for standard non-parole period offences. The study ultimately confirmed that the stated object of the statutory scheme was limited to promoting consistency and transparency in sentencing. Despite this, the view held by its opponents, including the Director of Public Prosecutions, the Public Defenders office, Legal Aid NSW, the NSW Bar Association and the NSW Law Society was that it revealed a legislative intention to increase sentences for offences with a standard non-parole period.

The Judicial Commission's findings generally support the conclusion that the greater the proportion of the standard non-parole period to the maximum penalty the greater the increase in the sentences imposed. Furthermore, a comparison of prison sentences imposed by plea shows that increases in the severity of sentences were generally greater for offenders convicted after trial than for offenders who entered a guilty plea. In relation to consistency where the scheme has not significantly affected sentencing severity, sentences appeared to have become more uniform.

In 2013 the Government commissioned the NSW Sentencing Council to review several aspects of the standard non-parole period scheme. Reports by the Sentencing Council correctly identified that the decision in

Muldock and the amendment of section 54B of the Crimes (Sentencing Procedure) Act 1999 have relaxed the rigidity that was seen in the earlier application of the standard non-parole period scheme. Further, following the legislative amendments and the decision in Muldock, the standard non-parole period has taken its place in the sentencing process as one of the two guideposts.

The first guidepost is the maximum penalty for the offence, which is reserved for the worst category of offending, by reference to objective and subjective factors. The second is the standard non-parole period which, for a standard non-parole period offence, is the guidepost that represents an offence in the mid-range of objective seriousness. The High Court in Muldock held in no uncertain terms that the standard non-parole period:

... represents the non-parole period for a hypothetical offence in the middle of the range of objective seriousness without regard to the range of factors, both aggravating and mitigating, that bear relevantly on sentencing in an individual case.

It is clear, in practice at least, that the standard non-parole period scheme is used as a guidepost in the sentencing process. It is not a mandatory provision and does not need to be considered in a conclusive manner. The utility and effect of the scheme remain questionable. Indeed, a general criticism of the scheme is that it lacks transparency and delivers some anomalous sentencing outcomes. The Law Society's Criminal Law Committee has gone as far as to say that the standard non-parole period scheme should be repealed.

While non-parole periods and head sentences generally increased following the establishment of the standard non-parole period regime, the mean and median penalties have continued to fall short of the standard non-parole period. This was confirmed in the Sentencing Council report. The sentencing of firearms offences currently subject to the standard non-parole period scheme clearly supports this position. According to data from the Judicial Commission of New South Wales, the vast majority of non-parole periods for firearms offences subject to the scheme fall short of the standard non-parole period specified under the Crimes (Sentencing Procedure) Act 1999.

In respect of an offence contrary to section 7 of the Firearms Act 1996—that is, unauthorised possession or use of a prohibited firearm or pistol—the current standard non-parole period is set at three years. Despite this, the vast majority of these offences are dealt with by the Local Court of New South Wales. The criminal jurisdiction of the Local Court of New South Wales is limited to a maximum sentence of two years imprisonment per offence. Clearly, an offence contrary to section 7 of the Firearms Act 1996 dealt with by the Local Court of New South Wales will not attract a three-year standard non-parole period, as is stipulated under the scheme table, given that the Local Court cannot even administer a primary sentence of over two years imprisonment.

The Judicial Commission of New South Wales statistics show that the majority of offenders prosecuted for unauthorised possession or use of a prohibited firearm or pistol are not sentenced to a term of imprisonment at all. Even when this offence has been dealt with by the New South Wales higher courts—that is, the District Court and Supreme Court—the same sentencing pattern continues. The vast majority of non-parole periods set by the courts for this offence fall short of the standard non-parole period set by the Parliament. In fact, of the rest of the firearms offences contrary to the Firearms Act 1996 that are currently subject to the standard non-parole period scheme, not one offender has been sentenced with a standard non-parole period as stipulated under the scheme—that is, 10 years imprisonment.

Needless to say, these offences are some of the most serious gun-related crimes. They relate to the unauthorised sale of prohibited firearms or pistols. The sale and supply of illegal weapons in our community help facilitate serious criminal activities, yet offenders are continually being dealt with leniently as a result of weak sentencing provisions. Further, during question time on 24 June, I asked the Attorney General how many people had been sentenced in New South Wales in the past five years under section 93GA (1A) and section 93GA (1B). The response was that "information regarding crime statistics can be accessed from the Bureau of Crime Statistics and Research" on its website. The correct answer is zero. Not one person has been sentenced for these offences.

It is disappointing to think that the Government is introducing standard non-parole periods for offences that have never been dealt with in New South Wales. Ultimately, the Shooters and Fishers Party believes that the standard non-parole period scheme is fundamentally inadequate in addressing gun-related crime, particularly in deterring such crimes. We recognise that laws in regard to firearms are necessary. At the same time, we will work to balance these laws with the rights of law-abiding firearm owners. For too long, law-abiding firearm owners have borne the brunt of poorly considered, knee-jerk reactions to gun crime by Commonwealth, State and Territory governments.

With some governments opting for good headlines over good policy, our law-abiding firearm community has been burdened with increasingly oppressive regulation, while gun crime, particularly in Sydney, has continued unaffected by new or existing legislation. It is no secret that the Shooters and Fishers Party pursues a strict and mandatory sentencing policy on gun-related crime. Although members may be at odds on the utility and appropriateness of mandatory sentencing in general, it is difficult to dispute the strength and clarity such a message would send to criminals: "If you use a firearm in the commission of an offence, you will go to jail. Not maybe, possibly, or perhaps; you will go to jail for a specified minimum term of imprisonment, if not longer."

The commentary in the media regarding this bill has been generally positive. However, the language used to describe the use and effect of this bill is deceptive and concerning. The *Australian* published an article titled "Gun crimes to trigger minimum terms." ABC radio reported, "Criminals who fire guns to evade arrest or who carry out drive-by shootings will face new mandatory non-parole periods under legislation being tabled in State Parliament." Triple M radio reported that "under the changes, firing a gun to resist arrest will attract a minimum nine year sentence without parole".

These sentiments and commentaries could not be further from the truth. There is nothing minimum, definitive or compulsory about the provisions of this bill. I reiterate: standard non-parole periods are not mandatory in any sense. They are used as a legislative guidepost throughout the sentencing process. Perhaps the language should be changed to "possible non-parole periods"? Any proposed legislation, particularly concerning criminal law, requires appropriate community consultation and media engagement to ensure that the community is accurately informed about the true effects of the legislation.

The Government has failed the people of New South Wales in this respect with the introduction of this bill. The real message that this bill sends to the community is that although the Government has taken a step in the right direction by improving sentencing for gun-related crimes, it has lost the road map. Whilst the standard non-parole period scheme may have some utility in respect to certain offences, our approach to gun-related crimes needs to be firmer and mandatory in order to ensure community safety. To be entirely critical, this bill is a window-dressing exercise by a government that lacks the backbone to address gun-related crime appropriately and directly.

It is clear that this bill will proceed. In the absence of any firmer alternative legislation from the Government on the issue of gun-related crime, the Shooters and Fishers Party reluctantly supports this half-baked bill. We invite the Government to support our amendments in order to add some backbone to the bill. Given the serious criminality involved, the significant risk of causing harm to innocent members of the community and the fear and apprehension these offences create in the communities, we believe these amendments are viable.

Finally, I congratulate the Hon. Gabrielle Upton on her appointment as New South Wales Attorney General. I have faith that she, along with her department, will address the submissions and concerns I have raised with greater attentiveness and aptitude than did her predecessor. I commend the bill to the House and urge the Government, Opposition and crossbench members to support our amendments in Committee.

The Hon. ERNEST WONG [11.58 a.m.]: I will comment briefly on the Crimes (Sentencing Procedure) Amendment (Firearms Offences) Bill 2015. The Opposition does not oppose the bill. The object of this bill is to amend the Crimes (Sentencing Procedure) Act to establish non-parole periods for several firearms offences against the Crimes Act and increase the standard non-parole period for offences relating to the unauthorised possession or use of firearms and prohibited weapons under the Firearms Act and the Weapons Prohibition Act. The standard non-parole period [SNPP] scheme was introduced by Labor in 2002 via the Crimes (Sentencing Procedure) Amendment (Standard Minimum Sentencing) Bill. As a lawyer by training, I understand the various debates on legislated sentencing versus judicial independence.

Standard non-parole periods represent an appropriate balance between guidance from this Parliament and the independence of our courts. This is because sentencing courts retain the discretion to depart from imposing a standard non-parole period in any given case. I believe that is appropriate. Equally we can also see from sentencing trends that community expectations about tougher sentences for violent crimes are being reflected by our courts in general. This too is a welcome trend.

This bill provides further guidance on particular offences and that is to be supported; hence Labor's support for the bill. I note that these provisions are modelled on recommendations by the NSW Sentencing Council, which is another welcome sign that these measures are appropriately considered and balanced. This is

yet another reason to support the measures. All in all, the bill is a welcome step for this Government. But as my colleague in the other place the Hon. Paul Lynch noted, what is less welcome is the spin that the Government has put around this bill. Some overenthusiastic members opposite have tried to spin this bill as a rapid and recent response to particular gun crimes in the Sydney area. Those who have studied the bill and its origins know that that is pure fluff. Let us look to the facts. The bill results directly from a NSW Sentencing Council report. The Government requested the report in September 2013 and when it made the request it did not even mention gun crime.

The Government sensibly requested a review of the standard non-parole period scheme in general terms. There is nothing wrong with that. It is a sensible legal policy. But dressing it up after the fact as some rapid response to shootings is doing both the Sentencing Council and our communities a great disservice. It is a disservice because it does nothing to address the very real and immediate concerns of Sydney communities, particularly Western Sydney communities because, disproportionately, drive-by shootings occur in Western Sydney. Those communities do not need perfectly sensible bills such as this dressed up as solutions that they are not. While this bill is therefore worth supporting and I will be voting for it, it would behove the Government to treat our communities with the respect they deserve when discussing critical law and order issues. They deserve that respect. I thank members for their attention.

The Hon. BEN FRANKLIN [12.02 p.m.]: I address the Crimes (Sentencing Procedure) Amendment (Firearms Offences) Bill 2015. These amendments are an expansion of the common-sense reforms that this Government has taken to address the issue of firearms offences in this State since 2011. It is important to note the context of these changes. Firearms offences are declining across New South Wales. The Government has introduced new laws creating a new aggravated offence of shooting at a dwelling in the context of organised criminal activity, punishable by up to 16 years imprisonment; providing police with power to enter and search premises or vehicles occupied by persons subject to a firearms prohibition order without warrant to determine whether the person is complying with the order; prohibiting people subject to a firearms prohibition order from acquiring or possessing ammunition or firearms parts, residing in premises where firearms are kept and from attending premises such as shooting ranges; and increasing penalties for breaching a firearms prohibition order.

Let me begin by commending the NSW Police Force for its professional and comprehensive approach to firearms offences. In the past financial year police took more than 10,000 guns off the streets, including more than 700 handguns. Police have issued more than 550 firearms prohibition orders since the new laws came into effect, and more have been approved and are waiting to be served. The combined efforts of Operation Talon and Strike Force Raptor have arrested more than 4,000 people, laid more than 8,000 charges and seized nearly 900 firearms, \$4.4 million in cash and assets, and more than \$15 million in drugs. New laws introduced since 2011 and the hard work of the New South Wales police have seen robbery with a firearm down by 19.5 per cent over the two years to April this year and unlawfully discharging a firearm dropped by 23.6 per cent over two years to September last year.

Indeed Bureau of Crime Statistics director Don Weatherburn confirmed in December that there has been a big increase in the likelihood of people being caught for these offences; likewise, the likelihood of their going to jail if they are convicted. He said that law enforcement as well as social factors are helping to push crime rates down across the board—a great outcome for New South Wales. But as police commissioner Andrew Scipione said, one only needs one shooting to have one too many. This Government is serious about tackling gun-related crime. The standard non-parole period scheme applies to a small number of serious offences and provides further guidance to the court's sentencing discretion. Currently five gun-related offences are included in the standard non-parole period scheme.

The bill before the House amends the Crimes (Sentencing Procedure) Act 1999 to include five more firearms offences in the standard non-parole period scheme, and additionally increases the standard non-parole period for two weapons possession offences that are already in the scheme. But in the interests of common-sense reform, let us look at the origins of the bill. These amendments follow recommendations made by the NSW Sentencing Council following its review of the standard non-parole period scheme. This report was consultative and comprehensive, and produced a balanced set of recommendations. I echo the words of the Hon. Adam Searle that if the standard non-parole period scheme is to sensibly inform the sentencing process it needs to be on a rational and transparent basis.

Changes to sentencing are never taken lightly but a rational and transparent process was achieved here. The standard non-parole period scheme provides clear direction to the courts about how sentences should reflect the seriousness of the crime. It is an important mechanism for guiding the sentencing process, as well as

maximum sentencing. As an important cog in the wheel of justice, scrutiny and review are necessary. Ultimately, the NSW Sentencing Council took the view that there were a number of gun-related offences serious enough that they should be included in the standard non-parole period scheme. These are now being included. Furthermore, the existing standard non-parole periods for unauthorised weapon possession are being increased due to the potential consequences.

The council's recommendations have informed the Government's actions in this area and provide a strong policy basis for the amendments contained in the bill. This is an active deterrent for criminals to engage in the use of firearms. I stress though that this is not aimed at licensed and law-abiding gun owners in New South Wales. They operate within strict guidelines that have been shown to work. However, there is a problem with the illegal use of firearms, especially in regional areas, that needs to be addressed. The rate of firearm theft is much higher in regional areas, at 6.4 per 100,000, compared to 0.8 in Sydney. There is an ice epidemic in many parts of regional areas that carries with it an increase in organised crime activity and ultimately illegal trafficking, sale and use of firearms. On the North Coast, detectives from Richmond Local Area Command formed Strike Force Mitla last year to investigate the supply of methamphetamine and the illegal sale of firearms in Casino and Lismore and on the North Coast.

The results have been staggering, with the seizure of a large supply of narcotics and an alarming number of illegal firearms. Firearm crime, an incredibly arbitrary, impersonal and destructive form of violence, has no place in our regional communities. The statistics on gun crime statewide have been taking an encouraging turn, but it is never enough. With a drug epidemic running rife through rural areas, we need to make sure that a correlating spike in gun crime is mitigated. Gun-related crime has no place in our regional communities or indeed anywhere in our State. These common-sense amendments will provide an active deterrent and close loopholes related to gun control. It is extremely important that as we fight the scourge of ice in our communities we also tackle the ugly underbelly of organised crime that feeds it—none more threatening than firearm-related crime. I commend the bill to the House.

Mr DAVID SHOEBRIDGE [12.07 p.m.]: I speak on behalf of The Greens on the Crimes (Sentencing Procedure) Amendment (Firearms Offences) Bill. First, I note that there has been careful analysis of the way the standard non-parole period scheme works in New South Wales by almost every speaker in this debate. In part, that shows that the analysis in this place is of a higher quality than that in the other place, which tends to be more aligned to the sort of quality analysis we see in the opinion pages of the *Daily Telegraph* than what one would expect from considered lawmakers. While I disagree with the proposed solution to the issues raised by the Hon. Robert Borsak of the Shooters and Fishers Party in his analysis, I think his analysis of the way standard non-parole periods work and the issues relating to sentencing and crime was a thoughtful contribution to this debate. And I say that of each contribution I have heard to date.

The bill imposes new standard non-parole periods within the existing standard non-parole period scheme for the following offences: discharging a firearm with intent to cause grievous bodily harm, a proposed standard non-parole period of nine years; discharging a firearm with intent to resist arrest or detention, a proposed standard non-parole period of nine years; firing a firearm at a dwelling house or other building with reckless disregard for the safety of a person—it is hard to imagine how that would not be made out—a proposed standard non-parole period of five years; fire a firearm during public disorder at a dwelling house or other building with reckless disregard for safety of a person, a proposed standard non-parole period of six years; and fire a firearm in the course of organised criminal activity at a dwelling house or other building with reckless disregard to safety of a person, a proposed standard non-parole period of six years.

It is also suggesting an increase in the standard non-parole period for two offences that currently have standard non-parole periods. The first is for the unauthorised possession or use of firearms for which the standard non-parole period is proposed to increase from three to four years. The second is the unauthorised possession or use of a prohibited weapon for which the standard non-parole period is proposed to increase from three to five years. Standard non-parole periods are essentially guideposts that are set by government for what a run-of-the-mill offence of medium seriousness should have as a non-parole period. The Crimes (Sentencing Procedure) Act provides as a general rule that the non-parole period should be not less than 75 per cent of the head sentence.

For example, if the head sentence is four years, the basic rule of thumb is meant to be that the non-parole period should be not less than three years, unless there is a finding of special circumstances. Standard non-parole periods, however, are not standard proportions across offences; rather they have proliferated in an ad hoc manner, leaving the penalty system literally littered with inconsistencies. They are also

an attempt to control judicial discretion and prevent judges from making a decision that they believe is most appropriately crafted to providing justice based upon the evidence presented—the objective seriousness of the offence, the personal circumstances of the defendant and matters that only a judge can best assess after hearing evidence in court—and I think that is at the core of these changes.

A standard non-parole period, if it is to have the effect of persuading a judge to provide a tougher sentence, of necessity produces a less just outcome. If a judge, having heard all the evidence and considered the objective seriousness of the offence and the mitigating and aggravating factors, forms a view that the appropriate sentence should be four years but looks to the law and finds the law demands a non-parole period of five years, by definition the standard non-parole period will produce a less just outcome in that case. It is for that reason that The Greens oppose standard non-parole periods as a matter of principle. The only occasion when standard non-parole periods have effect at law is when they are proposing an outcome different to what a judge, having heard all the evidence and having considered matters in accordance with law, would otherwise impose as a just sentence. The only effect of standard non-parole periods is to produce less just sentences.

As I indicated in relation to these standard non-parole periods, even though they provide greater consistency for at least this limited handful of offences in regard to the proportion of the maximum sentence, there are inconsistencies in the length of non-parole periods against the head sentence. For example, the proposed non-parole period for discharging a firearm with intent to cause grievous bodily harm will be nine years with a maximum of 25 years and the proportion of the maximum therefore is some 36 per cent. Under section 7 of the Firearms Act, unauthorised possession or use of a firearm, the proportion of the maximum is just 29 per cent.

The Greens have repeatedly been on the record as supporting strong firearm regulation. We abhor gun crime. We support every possible legal measure that this Parliament can adopt to reduce gun crime and the violence, injury, death and suffering resulting from it. We firmly believe that firearms need to be tightly controlled and extremely limited so that the scope for their use in crimes is greatly reduced. That being said, there is no convincing evidence that longer and longer jail sentences are needed in this State. As we have this debate we have record numbers of people in our New South Wales jails. New South Wales jails are bursting at the seams.

If any member wants an understanding of the problems that creates, I would commend the April report of the Inspector of Custodial Services. The report highlights the fact that a pressure cooker is building in our jails, with average prisoners spending 16 hours a day locked in their jail cells. Education results in our jails are falling. The opportunities to have TAFE and further training in our jails are falling. The opportunities to engage in programs to enable prisoner rehabilitation in our jails are falling, whilst the numbers of prisoner in our jails are increasing. Too many of our jail cells designed for one or two people are now being adapted to house three inmates. The pressure-cooker effect will inevitably lead to tragic consequences in our jails if something is not done.

What is the Government's answer? The Government's answer in this legislation is to increase sentences for firearms offences. We know courts are already imposing the longest sentences we have ever had. Courts are doing this at a time when violent crime is at historic lows. In March this year the Bureau of Crime Research and Statistics [BOCSAR] reported that sentence lengths are steadily increasing without any further legislative intervention. Violence and weapons offences have an upward sentencing trend from 1994 to 2013, so that the number of inmates in prison for weapons offences increased by roughly 37 per cent. The length of sentences for weapons offences has also increased 30 per cent in that period.

We know from not only BOCSAR studies but also international studies that increasing the length of sentences for crime does not deter crime. As I said, the Hon. Robert Borsak made the observation that there is a small correlation between the increasing likelihood of being apprehended and going to jail and reducing crime, which is consistent with the evidence. But there is a far larger correlation between improving economic outcomes and reducing social inequality and reducing crime.

The Hon. Adam Searle: That will never catch on.

Mr DAVID SHOEBRIDGE: Yes, that is a concept that this Government will never adopt. The overwhelming evidence shows that by reducing inequality and increasing economic wealth that has a large

impact on reducing crime. We should acknowledge the evidence that increasing the chance of people being apprehended and going to jail for any period has a small but statistically relevant impact on reducing crime. What has no impact on reducing crime is increasing sentences, and that is the problem with this bill. Increasing sentences from, say, five to seven years has been proven to be no deterrent for someone considering criminal activity. Study after study has shown that, yet that is all this bill proposes to do.

In short, there is absolutely no evidence that longer sentences in this State are required and precious little evidence to suggest that longer sentences are any effective deterrent for crime. The Greens as a matter of principle do not support standard non-parole periods because of unnecessary interference with judicial sentencing discretion. It is unfortunate that the hyperbole of this Government as reported in the *Daily Telegraph* and by certain morning radio commentators suggests that this is a mandatory "lock 'em up" measure. It is nothing of the sort and neither should it be, to be honest. It is a tokenistic measure by a government that has, like government after government in this State, figured out that rewriting laws is a much cheaper law and order measure than investing in justice reinvestment—education, community services, housing and mental health services. We know these kinds of justice reinvestment models break the cycle of violence and have long-term impacts on reducing crimes.

Some communities that most need justice reinvestment are those in rural and regional New South Wales that the Hon. Ben Franklin talked about. Bourke and Brewarrina do not need another jail. Bourke and Brewarrina need investment in quality education; they need more kids going to school and kids going to school with a full belly so they can stay in school and study then graduate from school and become productive members of their community. They do not need more jails.

Of course the real cost of this bill will not be seen in the next six to 12 months; it will be seen in five to 10 years when the prisons are still overflowing with people who have been handed longer and longer sentences. So far the Government's solution to that problem has been to contract for the building of two new private jails. That is this Government's law and order solution. It will not fix the cycle of violence or invest in the things that we know will break that cycle and improve the long-term health of our communities. Instead, it will drop another \$40 million to \$50 million in the current budget cycle to go through the tender process to build two new private prisons. That will be an inevitable fail and it will be contrary to the long-term interests of this State.

A series of speakers, both in the other place and in this place, have said that this bill addresses the illegal use of firearms. Of course that is a concern, and The Greens share it. Of particular concern is the leakage of firearms into the black market. We should do everything we can to prevent firearms getting into the hands of criminals. If criminals use firearms, they should be apprehended and given appropriate sentences. Why do we have this increasing number of thefts involving firearms in regional New South Wales? What is the source of weapons going into the illegal market? I do not expect members of this House to do anything other than listen to the evidence. The evidence presented to the Senate Legal and Constitutional Affairs Committee inquiry into this issue and reported earlier this year is unambiguous. At paragraph 2.38 the report notes:

Both the AIC and the ACC were questioned about the impact of illegal importation in facilitating the illicit firearm trade. The ACC stated that 'firearms and firearm parts illegally imported into Australia comprise a small proportion of all firearms diverted into the black market' and, based on data from the NFTMP, illegal importation only made up one per cent of total diversions. Figures from the ACC's National Illicit Firearm Assessment released in 2012 'revealed there are tens of thousands of illegal firearms' in Australia and that only three of 237 handguns seized by police had originated overseas.

It went on to quote the assessment:

... identified that the Australian illicit firearms market is predominantly comprised of firearms diverted from licit domestic sources. Firearms tracing found that less than one per cent of firearms traced were illegally imported, however, the risk of illicit importation was likely to continue to increase.

The report goes on to state at paragraph 2.29:

The AIC expressed similar views:

In terms of illegal importation, we can only go on the analysis that we did of the firearm trace database. It certainly demonstrated that from that data illegal importation was a fairly small contributor to handguns and to long-arms as well. I appreciate that there are different views about that, that the New South Wales police do believe that illegal importation is playing a pretty predominant role in terms of handguns coming into the country. Other jurisdictions and other entities within the Commonwealth have differing views. Obviously, in the last couple of years we have had some significant importation issues with handguns coming into New South Wales.

The report also states at paragraph 2.19:

Other submitters and witnesses argued that firearm theft plays an important role in the diversion of firearms from the licit market. Dr Terry Goldsworthy, Assistant Professor of Criminology at Bond University, noted that the 'issue of stolen illegal guns is still reasonably concerning to most Australians'.

The rate of gun theft in Australia continues to go up by about six per cent per year. We have fairly strong rule of law in Australia, we have fairly rigorous border protection and services. On the basis of that I would think that, if I were a criminal looking to source a weapon that is probably the route I would take.

The Australian Institute of Criminology is reported at paragraph 2.20:

The AIC stated that there was an average six per cent increase in the number of firearms reported stolen in the five years from 2004-05 to 2008-09 and confirmed that theft was a significant source of handguns for illicit purposes:

We found that of non-restricted handguns theft contributed 50 per cent of handguns to the overall illicit pool that had been seized and around 30-odd per cent to the restricted handguns. So theft did represent a significant contributor to the illicit handgun market based on the data that was available at the time.

Lastly, the report quotes the Australian Federal Police as follows:

The AFP advised that its holdings reveal that 'genuine theft from licensed owners' is a main source of firearms trafficked within Australia and of those firearms obtained by theft, many are stolen from licensed owners, dealers and security, sometimes 'by aggravated circumstances'. The ACC concurred:

Theft remains a primary method for diverting firearms to the illicit market. An average of 1,545 firearms per annum was reported stolen to Australian state and territory police during the period 2004-05 to 2008-09.

We can pretend that that evidence does not exist. We can also pretend that we can have a growing pool of legal weapons and that somehow we will be able to prevent them getting into the hands of criminals. However, all the advice from our peak Federal crime agencies—the Australian Federal Police, the Australian Crime Commission and even the Australian Institute of Criminology—is consistent: A growing pool of legal weapons is the main source of weapons in the illegal market, and it is that route that puts weapons into the hands of criminals.

If we seriously want to address firearm crime, this bill is not the way to go. We know that it will have no deterrent effect. If we really want to reduce firearm crime in the regions and in metropolitan areas, we must listen to the Australian Federal Police, the Australian Institute of Criminology and the Australian Crime Commission. They say that we should reduce the pool of legal weapons because that will reduce the number of weapons that get into the hands of criminals and will make our community safer. I know that that is not an attractive outcome to many conservative politicians. I also know that many of them are subjected to heavy pressure from the gun lobby to ignore the issue and the best evidence.

However, the people of New South Wales deserve better from their legislators. They do not deserve another bill like this that we know will have no impact on firearm crime. They deserve legislators who listen to the evidence and who act to protect community safety. The very best thing we can do is to reduce that pool of legal weapons, which has grown by 40 per cent since the gun buy-back scheme was implemented after the Port Arthur massacre in 2001. That is the best way to stop firearms getting into the hands of criminals.

The Hon. Dr PETER PHELPS [12.27 p.m.]: I intended to make a brief contribution to debate on the Crimes (Sentencing Procedure) Amendment (Firearms Offences) Bill 2015. However, after Mr David Shoebridge's effort I will now make a far more extensive contribution. We heard a complete abrogation of the truth when it came to what the Australian Crime Commission said about the illicit firearms market in Australia. I will quote from the commission's website to put this issue in context. I note that the member is leaving the Chamber because he knows that he has wilfully misrepresented the commission. He is obviously extremely embarrassed about that wilful misrepresentation and outright, scurrilous lie. He is too embarrassed to show his face.

Mr David Shoebridge: Point of order: The Government Whip is making offensive statements. If he wishes to make those statements he should do so by way of substantive motion. It is disorderly and I ask him to withdraw.

The Hon. Dr PETER PHELPS: I withdraw "lie".

Mr David Shoebridge: No. I ask the member to withdraw the series of offensive statements he made, and to do so without qualification.

The Hon. Dr PETER PHELPS: I withdraw "lie". I will quote directly from the Australian Crime Commission's website. It states:

Where do Illicit Firearms come from?

The illicit firearm market is predominantly comprised of firearms which have been diverted from the licit market through a variety of means.

The grey market consists of all long-arms that were not registered, or surrendered as required during the gun buybacks, following the National Firearms Agreement (1996). An unregistered firearm is an illegal firearm. Grey market firearms may end up in the illicit market.

Illicit handguns have principally been sourced by criminals who took advantage of differences in state and territory definitions of firearms and other loop-holes...

The following is the key issue:

—which have been closed for more than a decade.

I will repeat that: the Australian Crime Commission said that these came from licit sources because of loopholes that have been closed for more than a decade. The argument that Mr David Shoebridge has used that the current state of the market is in some way a contributing factor to the supply of illicit guns in the community is completely discredited by the same Australian Crime Commission report from which he was purportedly quoting. Firearms have also been diverted to the illicit market through the theft from licensed individuals, firearm dealers and illegal importation. The idea that one has some sort of epidemic of gun theft in Australia is completely disproved by the circumstances. The Australian Crime Commission conservatively estimates that there are 250,000 longarms and 10,000 handguns in the illicit firearms market. Importantly, the commission said:

The Australian Institute of Criminology Firearms Theft in Australia 2008-09 publication estimates around 1,500 firearms are stolen each year, the majority of which are long-arms, and relatively few of these recovered.

There are 250,000 longarms in the market which are illicit, but only 1,500 are stolen every year. According to the logic of The Greens, at the current rate there has to have been 125 years of firearms stealing to produce the outcome we have today. Firearm theft is terrible for the owners and the community. The existence of a legal market of firearm ownership in Australia does little to contribute towards the problem of illicit firearm ownership in Australia. We have heard repeatedly from the NSW Police Force that the problem with handguns, as opposed to longarms, has been their illegal importation by organised crime. That is the fundamental point we make. What the extremists in The Greens have been putting forward is complete nonsense, and it is discredited by the Australian Crime Commission's own report.

I am in two minds about the Crimes (Sentencing Procedure) Amendment (Firearms Offences) Bill 2015. As Government Whip I will be supporting the bill, but I have sympathy for what the Shooters and Fishers have said in relation to the sentencing provisions. The increase of the standard non-parole period is a good step as far as it goes, and it reflects at least one of the options provided by the NSW Sentencing Council in relation to standard non-parole periods. All law-abiding firearms owners are keen to make sure that those who seek to tarnish the reputation of law-abiding firearms owners are dealt with appropriately through the legal system.

There is no reason for the courts to treat such actions lightly. Every law-abiding firearm owner is strongly supportive of tougher measures for those who do the wrong thing. Too much of the activity that has taken place under this and previous governments has been to punish law-abiding firearms owners through excessive regulation or a regulatory regime that seeks to punish those who do the right thing, but it has had no material effect on those who do the wrong thing. Sadly, that has been the case with a number of so-called initiatives enacted by the Government of New South Wales, of which I am a very junior member.

The Hon. Shaoquett Moselmane: You are a senior member.

The Hon. Dr PETER PHELPS: No, I am a very junior member. But I thank the member very much for the promotion. If the Government were serious about the use of weapons in criminal offences it would institute a system similar to that which has been introduced in a number of states in the United States of America—that is, a set standard sentence must be served consecutively, not concurrently. Normally a seven-year sentence is applied on the basis of whatever the primary offence is. The mere possession of a weapon during the commission of what the United States calls a felony—and we call an indictable offence—provides for a mandatory and automatic seven-year sentence which is served consecutively, not concurrently.

Mr David Shoebridge said longer penalties do not have any effect on criminals. That may well be the case, but there will be a few people who will think, "If I hold up my local store I might get only two years from the local judge, if I hold up my local store with a firearm I am going to get nine." Indeed, there may well be a delimiting effect in what people choose to do when they know the consequence of their criminality is going to be paid for at an even greater rate if they have a firearm in their possession whilst committing the offence. That is worthwhile looking into because the only people it affects are criminals; it does not affect law-biding firearms owners. It is not as if someone accidentally slips on the way to commit an armed hold-up and falls with a gun in his or her hand. It is done with malice aforethought and clear criminal intent—with mens rea and actus reus. That is the sort of thing that should be appropriately punished by the courts.

All law-abiding firearms owners want to see absolute reduction to zero of crimes involving firearms. Initiatives like this, limited as they are, may lead to an increase in the prison population. I do not care about that—build more prisons if it is necessary. We do this not to send people to prison; people should not be in the position of creating the offence in the first place. It is not the punishment effect being sought here; it is the deterrent effect. It is the idea of knowing that if one does something with a firearm that person will be severely punished for doing so.

I am a law-abiding firearm owner. I am happy with a justice system that promulgates that sort of idea. And whilst I do have a great degree of sympathy for the amendments of the Shooters and Fishers Party, I will not be able to support them. The Government is taking a reasonable first step, but it does not get over the fundamental problem that the use of a firearm during the commission of an indictable offence should receive a mandatory statutory minimum sentence to be served consecutively after the headline offence is served. Even if it does not reduce crime, it will certainly take the criminals off the street for a longer time.

The Hon. PAUL GREEN [12.38 p.m.]: The Christian Democratic Party supports the Crimes (Sentencing Procedure) Amendment (Firearms Offences) Bill 2015. The object of this bill is to amend the Crimes (Sentencing Procedure) Act 1999 to establish a standard non-parole period for a number of firearms offences against the Crimes Act 1900, and to increase the standard non-parole period for offences relating to the unauthorised possession or use of firearms and prohibited weapons under the Firearms Act 1996 and the Weapons Prohibition Act 1998.

In 2010 the Bureau of Crime Statistics and Research [BOCSAR] published data on shooting offences in New South Wales, and separately in the Sydney statistical division for the period from October 2000 to September 2010. The data related to four types of shooting offences recorded in the Computerised Operational Policing System [COPS] database of the NSW Police Force. These particular shooting offences were related to shooting with intent to murder, shooting with intent other than to murder, the discharge of a firearm into premises, and unlawfully discharging a firearm. I note a significant downward trend over the 10-year period in three of the categories of shooting offences in both New South Wales and Sydney. A reliable trend test could not be conducted for "shoot with intent to murder".

A 2008 study by Samantha Bricknell, a researcher at the Australian Institute of Criminology, examined the criminal use of handguns in Australia in the period from 1989-90 to 2005-06. It would appear that arguments over money or drugs were the primary alleged motive behind handgun homicides and accounted for almost three in 10 homicides committed with a handgun. Domestic altercations also contributed to a sizeable proportion of these homicides. Samantha Bricknell also said:

While the dynamics of criminal associations operating in Australia do not reflect those in the United States or United Kingdom, elements of these—such as the use of firearms (particularly handguns) as protection—are likely to have been adopted. It is feasible then that the pattern of handgun homicide described in this paper is in part a consequence of disputes and other provocation occurring between players involved in particular criminal activities, such as motorcycle gangs and people involved in the illegal drugs trade.

The latest statistics on firearms theft are contained in the annual monitoring report of the Australian Institute of Criminology entitled "Firearm Theft in Australia 2008-09". At the outset, it is important to note the limitations of this data:

Those owners who illegally own firearms, either because they are unlicensed, their firearms were not registered at the time of the theft or the firearm is prohibited under Australian law, are least likely to report a theft because of the risk of being 'discovered' and consequently prosecuted for firearms offences. Owners who were knowingly negligent regarding the securing of their firearms may also be less inclined to report a theft, again because of risk of sanction. Finally, owners might not feel compelled to report the theft if their firearm was old, inoperable or of negligible value.

The Christian Democratic Party notes that we should reward those who are doing the right thing and behaving legally with firearms and punish those who are doing the wrong thing. In the case of the Shooters and Fishers amendments, we believe that these achieve that aim by increasing penalties for those who do the wrong thing. It is high time legal firearms owners are not held as scapegoats for criminals. Mr Borsak noted in his speech the appallingly low sentencing track record for criminals who do the wrong thing.

In relation to crime and injury from illegal use of firearms in New South Wales, one shooting is one shooting too many—I think that was mentioned by the Commissioner of Police. The Hon. Dr Peter Phelps said that if it deters one person from using a handgun, surely that is encouraging, because any crime that does not involve a handgun will have a much lower mortality rate. We have heard a lot of good speeches this morning on this issue. I applaud the observations made by the Hon. Robert Borsak. The Christian Democratic Party will be supporting the foreshadowed amendments of the Shooters and Fishers Party. We commend the bill to the House.

The Hon. ROBERT BROWN [12.44 p.m.]: As is my wont, I will be very brief. I support my colleague the Hon. Robert Borsak. The amendments to be put forward by the Shooters and Fishers Party support this bill—as the Hon. Robert Borsak said, we do support the bill. Time and again it seems that "Guns and Moses" is the only party in this place prepared to stand up for the welfare of the people of New South Wales. The major parties and The Greens wimp it out: "Oh, no—tut-tut—mandatory sentencing." My colleague the Hon. Robert Borsak had a bill on the *Notice Paper* in the last Parliament—it has been brought on again in this Parliament—to address this exact issue. The last time around we almost had it there, believe it or not, because the Government was of a mind to perhaps go for it, but once again the Government will not go for it. The Opposition and the Government have a golden chance to finally put some teeth into some of this sentencing legislation. I urge them to take it.

Insofar as the misinformation plied in this Chamber by Mr David Shoebridge, everybody understands that that is just stock in trade for The Greens. They trot out half-truths, half-parts of surveys, data and statistics. The simple fact of the matter, put in a nutshell by the Hon. Paul Green, is that we should be rewarding people who can get over the hurdle of being a fit and proper person. I have a little green card in my pocket that says I am a fit and proper person. Not many in this House can claim to have the same imprimatur of the Government.

The Hon. Adam Searle: I can.

The Hon. ROBERT BROWN: Sorry, yes—the judiciary and other persons can.

The Hon. Paul Green: In regard to firearms.

The Hon. ROBERT BROWN: Yes. It says on my card "a fit and proper person". Yet every time we get an opportunity to take the heat off those fit and proper persons and put the acid on the bad bastards who are doing all the nasty work—running around with their guns held on the side, caps on backwards, shooting at their mates' garages, killing each other and firing guns in public—we do not take it; we drop our heads. Well, members of the Shooters and Fishers do not drop their heads, and the Christian Democratic Party has indicated that it will support the Hon. Robert Borsak's amendments. Come on: Stand up, the lot of you. Support the Hon. Robert Borsak's amendments. Demonstrate to the people of New South Wales that you are not wimps.

The Hon. DAVID CLARKE (Parliamentary Secretary) [12.47 p.m.], on behalf of the Hon. John Ajaka, in reply: I thank members for their contributions to debate. The purpose of the Crimes (Sentencing Procedure) Amendment (Firearms Offences) Bill 2015 is to make good on the Government's commitment to take steps to deliver stronger sentences for gun-related crimes. As noted in my second reading speech, for too long the community has felt violent, serious criminals have been getting off too lightly for things such as owning or using a prohibited firearm or weapon and committing drive-by shootings. The changes set out in this bill will ensure that criminals are better and more appropriately punished for their actions when they engage in illegal activities involving firearms and other weapons.

Despite claims by the Labor Party that the Government is doing little to combat gun-related crime, the New South Wales Government is taking action to address illegal firearms and weapons that have the potential to cause exceptional harm to a large number of victims. Since 2011 the Government has introduced a series of reforms to directly target those who possess and misuse illegal firearms. The Government has already introduced new laws: creating a new aggravated offence of shooting at a dwelling in the context of organised criminal activity, punishable by up to 16 years imprisonment; providing police with power to enter and search premises or vehicles occupied by persons subject to a firearm prohibition order without warrant to

determine whether the person is complying with the order; prohibiting people subject to a firearm prohibition order from acquiring or possessing ammunition and firearm parts, residing in premises where firearms are kept, and from attending premises such as shooting ranges; and increasing penalties for breaching a firearms prohibition order.

In the 2013-14 financial year the NSW Police Force seized, took as an exhibit or had surrendered to it more than 10,000 firearms, including more than 700 handguns. Local police commands are also supported by specialist police whose purpose it is to drive down gun and gang crimes through Operation Talon and Strike Force Raptor. As some Government speakers noted, police officers involved in Strike Force Raptor and Operation Talon have arrested more than 4,000 people, laid more than 8,000 charges and seized nearly 900 firearms.

The Opposition has been quick to comment that the Government is doing little to address gun crime and that police numbers are in decline. Police numbers across New South Wales are at record highs. The authorised strength of the force is currently 16,665. This month a further 100 positions were added to the NSW Police Force. Further, the Government has committed to boost the authorised strength of the NSW Police Force to 16,795 over this term of Government. The outstanding work of our police force will be complemented by changes to penalties that are set out in the bill. Importantly, the changes were recommended by the NSW Sentencing Council in 2013 as part of the review of the operation of the standard non-parole period scheme.

The bill sets new standard non-parole periods for five serious firearm offences which are not currently included in the scheme: discharging a firearm with intent to cause grievous bodily harm; discharging a firearm with intent to resist arrest or detention; discharging a firearm at a dwelling house or other building with reckless disregard for safety; discharging a firearm during a public disorder at a dwelling house or other building with reckless disregard for safety; and discharging a firearm in the course of an organised criminal activity at a dwelling house or other building with reckless disregard for safety. The bill also takes up the Sentencing Council's recommendations to increase existing standard non-parole periods for two offences: unauthorised possession or use of a prohibited firearm or pistol where the standard non-parole period will increase from three years to four years, and unauthorised possession or use of a prohibited weapon where the standard non-parole period will increase from three years to five years.

The amendments set out in the bill will help to ensure that sentences handed down for firearms offences better align with community expectations because the standard non-parole period scheme acts as a sentencing guidepost for courts with standard non-parole periods representing the non-parole period for a hypothetical offence in the middle of the range of objective seriousness. The bill will help to ensure that sentences for firearms and weapons offences better align with community expectations and it will send a clear signal to criminals that if they want to own or use an illegal gun or weapon, they will face the possibility of serving more time behind bars. The people of New South Wales deserve to feel safe and secure in their homes and communities. This bill is one example of how the New South Wales Government is taking steps to build a safer community. I assure the House that the Government will continue to work hard to keep the community safe and ensure that it has confidence in the Government system. I commend the bill to the House.

Question—That this bill be now read a second time—put and resolved in the affirmative.

Motion agreed to.

Bill read a second time.

In Committee

The CHAIR (The Hon. Trevor Khan): If there is no objection, the Committee will deal with the bill as a whole.

The Hon. ROBERT BORSAK [12.54 p.m.], by leave: I move the Shooters and Fishers Party amendments Nos 1 to 7 on sheet C2015-020 in globo:

No. 1 **Standard non-parole period—discharging a firearm with intent to cause grievous bodily harm**

Page 3, schedule 1 [1], proposed item 4AA. Omit "9 years". Insert instead "12 years and 6 months".

No. 2 **Standard non-parole period—discharging a firearm with intent to resist arrest or detention**

Page 3, schedule 1 [1], proposed item 4AB. Omit "9 years". Insert instead "12 years and 6 months".

No. 3 **Standard non-parole period—fire a firearm at a dwelling-house**

Page 3, schedule 1 [2], proposed item 10N. Omit "5". Insert instead "7".

No. 4 **Standard non-parole period—fire a firearm at a dwelling-house during a public disorder**

Page 3, schedule 1 [2], proposed item 10O. Omit "6". Insert instead "8".

No. 5 **Standard non-parole period—fire a firearm at a dwelling-house in the course of an organised criminal activity**

Page 3, schedule 1 [2], proposed item 10P. Omit "6". Insert instead "8".

No. 6 **Standard non-parole period—unauthorised possession or use of firearms**

Page 3, schedule 1 [3], line 9. Omit "4". Insert instead "7".

No. 7 **Standard non-parole period—unauthorised possession or use of prohibited weapon**

Page 3, schedule 1 [4], line 13. Omit "5". Insert instead "7".

As outlined in my contribution to the second reading debate in 2013, the Government commissioned the NSW Sentencing Council to review the operation of the standard non-parole period scheme. Recommendation No. 4.1 in the report of the NSW Sentencing Council states:

The process for specifying an SNPP for an SNPP offence should assume as a starting point a non-parole period that is 37.5% of the maximum penalty of the offence. The resulting figure can then be reduced or increased (to no more than 50% of the maximum penalty for the offence) as is appropriate, having regard to the following matters ...

The Government had the option to implement a standard non-parole period that represents 50 per cent of the maximum penalty of the offence but has opted to implement the lower percentage figure recommended by the NSW Sentencing Council of 37.5 per cent in respect of the firearms offences identified in the bill. In line with the NSW Sentencing Council recommendations, the Shooters and Fishers Party seeks to implement a standard non-parole period on all the offences identified in the bill to 50 per cent of the maximum penalty of said offences. Our amendments do exactly what I thought was a no-brainer when it comes to serious gun-related crime in this State.

The Hon. DAVID CLARKE (Parliamentary Secretary) [12.56 p.m.]: The NSW Sentencing Council recommended that standard non-parole periods be based on a fixed proportion of 37.5 per cent of the maximum penalty for each offence, which can be adjusted up or down according to relevant considerations such as the special need for deterrence and the potential vulnerability of victims, but the NSW Sentencing Council recommended standard non-parole periods be set no higher than 50 per cent. In its report, after careful analysis of the seriousness of offences and their relationship to other offences within the scheme, the NSW Sentencing Council recommended a standard non-parole period for each offence. For example, the NSW Sentencing Council did not recommend a standard non-parole period higher than 37.5 per cent for firing at a building with reckless disregard for safety because particularly serious outcomes involving injury or death will be covered by other offences with appropriate penalties.

The NSW Sentencing Council consulted with a variety of government and non-government stakeholders throughout the development of its report on standard non-parole periods. It received submissions from organisations including the Law Society of NSW, the NSW Bar Association, Legal Aid NSW, the Public Defenders office, the Police Association of NSW, the Office of the Director of Public Prosecutions, Bravehearts and Victim Services and Support. The NSW Sentencing Council is a representative body with a membership that reflects a diverse range of views. The report was settled by council members, including representatives from the NSW Police Force, victims' groups, Corrective Services NSW, the Director of Public Prosecutions and the Public Defenders Office. The Government thanks the NSW Sentencing Council for its careful work in making the recommendations, which it adopts in this bill. The Government does not support the amendments before the Chair.

The Hon. ADAM SEARLE (Leader of the Opposition) [12.59 p.m.]: As the Parliamentary Secretary outlined, the recommendations made by the NSW Sentencing Council and the provisions now included in the bill were reached for precise and specified reasons. I understand the intent behind the amendments, and I have

some personal sympathy for the thought that has gone into the amendments, but they run the risk of rendering the standard non-parole period scheme to be less coherent than it currently is before the provisions in the bill take place.

That may well be the outcome because these amendments would unbalance the ratios between the standard non-parole period and the head sentence. In our view, that would make it less likely that the scheme would be followed by the courts, especially post-Muldrock. That being the case, it may well have an effect that was not intended by the mover of the amendments. The whole intention of the bill and of the Sentencing Council report is to move towards greater consistency in sentencing. These amendments may well have the effect of detracting from that. For those reasons, the Opposition will not be supporting the amendments.

Reverend the Hon. FRED NILE [1.00 p.m.]: The Christian Democratic Party supports these amendments. We believe it is very important to send a message to the wider community about our complete rejection of the use of illegal firearms in various ways—shooting up houses, shooting individuals and so on. I hope that when this bill is passed a strong message will be sent by the Government, through advertising and by other means, about these penalties. That will act as a direct deterrent to gun crime and attacks on innocent civilians. We support the amendments.

Question—That Shooters and Fishers Party amendments Nos 1 to 7 [C2015-020] be agreed to—put.

The Committee divided.

Ayes, 4

Mr Green
Reverend Nile
Tellers,
Mr Borsak
Mr Brown

Noes, 34

Mr Ajaka	Mr Gallacher	Mr Primrose
Mr Amato	Mr Gay	Mr Searle
Ms Barham	Mrs Houssos	Mr Secord
Mr Blair	Mr MacDonald	Ms Sharpe
Mr Buckingham	Mrs Maclaren-Jones	Mrs Taylor
Mr Clarke	Mr Mallard	Mr Veitch
Mr Colless	Mr Mason-Cox	Ms Voltz
Ms Cotsis	Mrs Mitchell	Mr Wong
Ms Cusack	Mr Mookhey	
Mr Donnelly	Mr Moselmane	<i>Tellers,</i>
Mr Farlow	Mr Pearce	Dr Phelps
Dr Faruqi	Mr Pearson	Mr Franklin

Question resolved in the negative.

Shooters and Fishers Party amendments Nos 1 to 7 [C2015-020] negatived.

Bill reported from Committee without amendment.

Adoption of Report

Motion by the Hon. David Clarke, on behalf of the Hon. John Ajaka, agreed to:

That the report be adopted.

Report adopted.

Third Reading

Motion by the Hon. David Clarke, on behalf of the Hon. John Ajaka, agreed to:

That this bill be now read a third time.

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

[The Assistant-President (Reverend the Hon. Fred Nile) left the chair at 1.11 p.m. The House resumed at 2.30 p.m.]

Pursuant to sessional orders business interrupted at 2.30 p.m. for questions.

QUESTIONS WITHOUT NOTICE

WESTCONNEX

The Hon. ADAM SEARLE: My question without notice is directed to the Minister for Roads, Maritime and Freight. Given that Infrastructure NSW originally costed the WestConnex proposals at \$10 billion but now costs them at \$15.4 billion, why have the project costs increased by more than half? Will the Minister guarantee that the figure will not continue to increase?

The Hon. DUNCAN GAY: The fact is that the project costs have not increased by a factor of a half. On the projections that we put forward, we are landing either at or below the projected cost. There has been a change of scope in the interim. The changes in costs reflect two things: first, a change in scope; and, secondly, the out-turn cost. Through record levels of investment in public transport and road infrastructure, we are delivering a complete transport solution for the people of greater Sydney, and WestConnex is an integral part of that solution. WestConnex is being delivered in a number of stages, with the majority funded through the user-pays, distance-based tolling system. In 2012 Infrastructure NSW assessed the project's costs as being in a range from \$10 billion to \$13 billion, depending on scope and contingency.

As the WestConnex Delivery Authority further refined the project, the total budget was estimated at \$11 billion to \$11.5 billion. That was detailed in the WestConnex business executive summary, which has been publicly available since 2013—something Labor and The Greens choose continually to ignore. We are talking about 2012 dollars. That would be the cost if the project could be built in one year. As the project is taking nearly a decade to progressively build, the equivalent out-turn—I mentioned this word a moment ago. The Hon. Penny Sharpe never delivered any infrastructure so she probably does not know what "out-turn" means.

The Hon. Walt Secord: Your nose is growing.

The Hon. DUNCAN GAY: The Hon. Walt Secord said my nose is growing. I had to move to the other side of the Chamber to get around his nose. He was responsible for spending \$500 million on the metro and delivering absolutely nothing. As I said, as the project is taking nearly a decade to progressively build, the equivalent out-turn cost—

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

The Hon. DUNCAN GAY: This is a standard practice when referring to large, multi-year infrastructure projects. The most recent budget figures reflect improvements to the WestConnex scope of works and ensure that the infrastructure is in place to prepare for tomorrow's Sydney. As announced last year, the key improvements include preparing for future infrastructure development by changing the alignment to ensure the WestConnex route provides the best connection to a future western harbour tunnel and a southern extension, better serving Sydney's north and south.

This includes changing the alignment of the M4 East and constructing tunnel stubs as part of the new M5 project, where future extensions of the motorway can be joined up without having to disrupt traffic already using WestConnex. These improvements bring the total expected out-turn investment in the project to \$15.4 billion. In a nutshell, the additional investment now brings forward components and future stages while also accelerating the project and maximising the efficiency of the final integrated system. There is no change in cost.

The Hon. ADAM SEARLE: I ask a supplementary question. Will the Minister elucidate his answer regarding the changes in the project's scope?

The Hon. DUNCAN GAY: I can only give the Hon. Adam Searle so much help. Had he been listening and not looking at his previously prepared supplementary question, he would have heard me detail those changes in my answer. I cannot help those who cannot be helped.

The Hon. Adam Searle: Point of order—

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

The Hon. Adam Searle: The Minister is debating the question rather than being generally relevant.

The PRESIDENT: Order! The Minister was debating the question. If he has anything else to add he may do so; otherwise he will conclude his answer.

The Hon. DUNCAN GAY: Once again I emphasise that I answered the question previously. If members opposite are so lazy that they do not listen to the answers to their questions, I cannot help them.

WESTCONNEX

The Hon. NATASHA MACLAREN-JONES: My question without notice is addressed to the Minister for Roads, Maritime and Freight. Will the Minister update the House on the WestConnex delivery approach?

The Hon. Walt Secord: It's just reconfigured.

The Hon. DUNCAN GAY: Spell it, Walt. I thank the Hon. Natasha Maclaren-Jones for the question. It gives me a chance to teach the Opposition a thing or two on how to deliver major road projects. It is disappointing that I must tell the House that this morning we saw Labor's Roads spokesperson, Ms Jodi McKay, yet again fabricating misinformation about WestConnex.

The Hon. Adam Searle: Point of order: The Minister well knows that if he wants to reflect on a member of the other place he must do so by way of substantive motion and not in a sidewinder, as he is disgracefully attempting to do.

The PRESIDENT: Order! There was an element of reflection but the Minister was largely in order. I advise him to avoid reflections in answers.

The Hon. DUNCAN GAY: I did not think it would ever happen. I did not think anyone would be able to do so but I think Ms Jodi McKay has achieved it: she is starting to make the Hon. Walt Secord look good. While it is evident that the Opposition Roads spokesperson does not care for the actual facts, I am pleased to set the story straight. I suppose we cannot expect Labor to know how to deliver a project when, as I said earlier, it has never built anything. The real facts are that WestConnex is being developed and procured by the New South Wales Government.

The PRESIDENT: Order! There is too much noise in the Chamber.

The Hon. DUNCAN GAY: The New South Wales—

The PRESIDENT: Order! I call the Hon. Sophie Cotsis to order for the first time.

The Hon. DUNCAN GAY: The New South Wales Government has clear oversight by two of our transport experts in Tim Reardon, Secretary of Transport for NSW, and Peter Duncan, chief executive officer of Roads and Maritime Services. The New South Wales Government's roads agency, Roads and Maritime Services, is the underlying owner of all State roads in New South Wales, including WestConnex when it is built.

The PRESIDENT: Order! There is too much noise from Government members.

The Hon. DUNCAN GAY: Tim Reardon is the chair of the Government's Client Executive Committee, which has representatives from State agencies and the Federal Government and is responsible for overseeing WestConnex. These responsibilities include ensuring appropriate approvals to invest government funding into WestConnex projects and setting the terms of the contract to operate the motorway.

The Hon. Penny Sharpe: Is it a management committee?

The Hon. DUNCAN GAY: You do not want to hear the truth. You are happy to spread lies across the city. I told Peter Primrose this yesterday, yet—

The Hon. Adam Searle: Point of order—

The Hon. DUNCAN GAY: —they went out and distorted the facts. There is no lie they are not willing to tell.

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

The Hon. Adam Searle: The Minister is being disorderly insofar as he is directing his comments to individual members in the Chamber rather than through the Chair. Please call him to order.

The PRESIDENT: Order! While that may be the case, the Hon. Penny Sharpe was interjecting. I have, however, repeatedly encouraged the Minister during his answers not to respond to interjections, particularly from the Hon. Penny Sharpe. I ask the Minister to use his remaining time to respond to the question.

The Hon. DUNCAN GAY: As I said, these responsibilities include ensuring appropriate approvals to invest government funding into WestConnex projects, setting the terms of the contract to operate the motorway and directing and monitoring safety requirements, tolling, heavy vehicle compliance and integration with the existing road network. The client executive committee reports via Ministers to the Cabinet Infrastructure and Expenditure Review Committees. This is the same as for NorthConnex and the North West Rail Link.

Tim Reardon and Peter Duncan are far from "dumped", as Ms Jodi McKay put it. It is quite the opposite. Our Roads and Maritime Services and transport executives are exactly where they should be. This is an accountable and appropriate governance structure that provides strong leadership, sound financial management, effective project management and clear government oversight. We have the right people in the right place to ensure these vital infrastructure projects are delivered as planned for the people of New South Wales. I did explain this to those opposite yesterday. But since Labor are at sixes and sevens on WestConnex, perhaps they chose not to share that information with their Roads spokesperson and left her to look foolish once again this morning. It is clear that Labor would not let the truth get in the way of a good story.

CHINESE NEW YEAR TWILIGHT PARADE

The Hon. WALT SECORD: My question without notice is directed to the Minister for Roads, Maritime and Freight. What is the Government's response to community concerns about the fact that the world famous Chinese New Year Twilight Parade, attended by more than 130,000 visitors, will be cancelled due to the light rail construction? What steps is Transport for NSW taking to assist with alternative arrangements. Killing the Year of the Monkey!

The Hon. DUNCAN GAY: I should resist the temptation, but while the Hon. Walt Secord is alive the Year of the Monkey is living proof in this State. I am sure that there will be appropriate measures put in place. I do not have that information.

The Hon. Walt Secord: That is not what the bureaucrats are saying.

The Hon. Sophie Cotsis: That's not what they're saying.

The Hon. DUNCAN GAY: You would not know. You would not know anything.

Mr Jeremy Buckingham: Don't respond to interjections, Duncan. Don't respond.

The Hon. DUNCAN GAY: No, I would not even respond to you. I have resisted the temptation for days.

The Hon. Peter Primrose: You must have a briefing note on this.

The Hon. DUNCAN GAY: There would be one somewhere.

The Hon. Walt Secord: A competent Minister would have a briefing note.

The Hon. DUNCAN GAY: I know there would be one and within that briefing note I am sure there is a fabulous answer. Once I get that briefing note I guarantee to come back to the House with an answer.

The Hon. Sophie Cotsis: This is about the Chinese New Year festival, which attracts 130,000 visitors. What is happening?

The PRESIDENT: Order! I call the Hon. Sophie Cotsis to order for the second time.

LOCAL GOVERNMENT AMALGAMATIONS

The Hon. ROBERT BROWN: My question without notice is directed to the Minister for Roads, Maritime and Freight, representing the Minister for Local Government. Given that the Government has set seven sustainability benchmarks or hurdles for measuring the fitness of councils in New South Wales, which of those benchmarks considers the benchmark or hurdle of community satisfaction or community support for any proposed council amalgamation?

The Hon. DUNCAN GAY: I thank the Hon. Robert Brown for his question. As it is one of great technicality, which I am sure my colleague the Minister for Local Government is across, I will refer the question to him for a timely response.

YOUTH OPPORTUNITIES PROGRAM

The Hon. SCOTT FARLOW: My question without notice is addressed to the Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism. Will the Minister outline what the Government is doing to help young people engage with their communities?

The Hon. JOHN AJAKA: I thank the Hon. Scott Farlow for his question. The Youth Opportunities program provides youth and community organisations and local government with funding for one-off, time-limited new projects to support young people to lead and participate in community development activities. The program makes it easier for people to be involved in their communities. One-off grants of up to \$50,000 are provided to youth and community organisations and local government to support local youth-led and youth-driven projects.

Since November 2012 the New South Wales Government has provided \$5.7 million in three rounds of funding to support 89 local projects. More than 31,500 young people have already benefited from the program through more than 2,500 community events and activities. Projects funded have focused on providing young people with the opportunity to develop a range of life skills including healthy behaviours, leadership, communication and teamwork, and event management and planning and providing volunteering opportunities that link young people to further education and training.

Many of the projects funded since 2012 have been inspiring. For example, one project supported six young deaf students to produce a documentary for other young deaf people about how they were addressing the issues and facing the challenges of transitioning from dependence to independence. Another project saw 28 homeless and at-risk young people in the Illawarra learn construction skills whilst working to redevelop the former Warilla police station into a community hub and youth accommodation facility. A further project in Maroubra trained and supported 60 youth—aged 15, 16 and 17—to become mentors and leaders of young people aged 10, 11 and 12 at the time of their transitioning from primary to high school.

In July 2015, I announced the fourth round of funding which will provide \$1 million in the 2015-16 financial year for Youth Opportunities projects. The announcement was made at the Weave Youth and Community Services centre in Redfern. Applications for funding opened on 27 July and will close on 31 August. I will be announcing the successful applicants later in the year. Young people are society's greatest asset and the foundation for the future. It is everyone's responsibility to ensure that all our young people, no matter what their background or circumstances, have the opportunity to reach their full potential. We know that by supporting the participation of young people in the community, particularly those on society's margins, we can provide them with the opportunity to overcome a range of obstacles and achieve great things for themselves and their communities.

SOUTHERN HIGHLANDS COALMINE PROPOSAL

Mr JEREMY BUCKINGHAM: My question without notice is directed to the Minister for Primary Industries, the Hon. Niall Blair. What is the Government doing to protect high-quality agricultural land and important industry clusters in the Southern Highlands from the impacts of coalmining, given POSCO's plans to construct a massive coalmine at Berrima, 10 minutes' drive from Moss Vale—which, as the Minister would know firsthand, is a unique rural, residential, tourism and recreational area and a vital part of the Sydney Water Catchment?

The Hon. NIALL BLAIR: I thank the honourable member for his question. He seems to think it is next door. In fact, I live within the area covered by that licence, so I will not answer the question now. I will seek further advice.

Mr Jeremy Buckingham: You can't come up with it in 30 seconds?

The Hon. NIALL BLAIR: The honourable member's information is wrong; I actually live within the exploration licence area. I am directly impacted. Therefore, I will not answer the question.

WESTCONNEX

The Hon. GREG DONNELLY: I direct my question without notice to the Minister for Roads, Maritime and Freight. Will the Minister guarantee the safety of residents living near the large deposits of asbestos being dug up at St Peters as part of the WestConnex project development?

The Hon. DUNCAN GAY: I thank the honourable member for his question and acknowledge his concern, which the Government shares. Some members may not be aware, but I am sure some are, that the WestConnex Delivery Authority [WDA] acquired the Alexandria landfill—the planned site for the St Peter's interchange for the new M5—in December 2014. The Alexandria landfill is an existing waste facility licensed to receive a range of materials, including asbestos. Clean-up work is now underway, including stabilisation work, and removal of existing stockpiles and temporary buildings. This does not include the removal of any material below the ground. It is simply a transfer of material waiting on the site to be transferred.

More than 1,800 residents in the surrounding area were letterboxed—I suspect that is how the Opposition obtained the information—informing them of what was happening. That is what the Government should do; in fact, we would have deserved a good kick if we had not informed the local community. That was done prior to this clean-up work commencing. The same residents received further information in the form of a factsheet distributed yesterday, 11 August, to address common questions about the work. Updates are also available on the WestConnex website.

This clean-up is being done in accordance with strict work, health and safety legislation and existing Environmental Protection Authority requirements and licences, and it has the necessary approvals. It has all been done under the authority's supervision. This part of the clean-up process does not require an environmental impact statement. The full environmental impact statement for stage two of the WestConnex project will be on public display later this year and will detail any further remediation required at that point to allow for the construction of the St Peters interchange on the site.

During the current clean-up, best practice risk management procedures are in place for the safety of workers and the community. Removal of any hazardous material is done in accordance with strict Environment Protection Authority guidelines, and the safety of workers and the community are paramount. Over the past four years, the authority has issued numerous clean-up notices to the landfill site licensee in relation to stockpiles containing asbestos. The WDA inherited these unresolved clean-up issues when it acquired the site in December 2014. It is working with the Environment Protection Authority and WorkCover to ensure all current and future clean-up work is carried out in accordance with environmental licences and legislation.

This is a good outcome for the community. The site is now under government control and finally can be cleaned up properly in accordance with all Environment Protection Authority and WorkCover requirements, not left to fester as it was. It is disappointing to see the responsible actions being taken by the WDA to the great benefit of the local community being completely misrepresented in the media and by opponents of WestConnex. This sort of scaremongering does not help anyone who has genuine questions about these important projects.

I appreciate that people are seeking more details, as did the honourable member, and I congratulate him for doing that. That detail will be laid out in the environmental impact statement, which is due out in the next couple of months. I again thank the honourable member for his question.

FOOD SAFETY

The Hon. RICK COLLESS: I address my question without notice to the Minister for Primary Industries, and Minister for Lands and Water. Will the Minister inform the House how the New South Wales Government is improving food safety in this State and how it is supporting the kangaroo meat industry?

The Hon. NIALL BLAIR: I recently had the opportunity to visit the NSW Food Authority head office at Newington and to see firsthand some of the important work it is undertaking to ensure that food produced, manufactured and sold in New South Wales is monitored and safe at each step it goes from paddock to plate. Australia's only through-chain food safety agency, the NSW Food Authority is more than a regulatory agency; it is also an educator and facilitator, working in partnership with industry, consumers and other stakeholders to deliver confidence and certainty, to create a positive food business environment, and to contribute to the economic growth of this State.

The one-stop-shop nature of the NSW Food Authority, delivering food safety from paddock to plate, benefits consumers and industry because that single point of contact is convenient, flexible and efficient. Supporting and fostering this positive safe food culture have flow-on benefits because safe food is big business. The New South Wales NSW food industry is worth \$113 billion annually. That is 24 per cent of our gross State product. This commitment to growing and improving the food business sector's contribution to this State's growth and prosperity is clearly outlined in the NSW Government Food Safety Strategy. The strategy's primary aim to ensure the food sector contributes to NSW's economic growth and prosperity by reducing foodborne illness and delivering safe, superior quality food to local and international consumers will be achieved through targeted goals.

A great example of an industry that the Government and the NSW Food Authority are supporting is our State's kangaroo meat industry. I am pleased to inform the House that far from what has been claimed by some in recent press reports, this industry is a safe, sustainable and established industry that has a consistently good compliance rate. Kangaroo meat is widely regarded as a safe and healthy meat high in protein and low in fat, and it is increasingly sought after by health-conscious consumers. The industry in New South Wales comprises approximately 200 licensed kangaroo harvesters, who supply their harvested animals into 64 field depots throughout regional areas. Kangaroos are then transported to processing facilities across the States. New South Wales has one licensed kangaroo processing facility, located in Walgett. That facility holds export accreditation and is exporting to Papua New Guinea.

All kangaroo game meat processed, manufactured or sold in New South Wales must comply with the Australian Standard for Hygienic Production of Game Meat for Human Consumption. The NSW Food Authority, in conjunction with a number of other agencies, plays a role in regulating this industry to ensure confidence and certainty for consumers and business. Kangaroo harvesters, chillers and processors are inspected or audited to assess their compliance with food safety requirements by the NSW Food Authority and the Commonwealth Department of Agriculture. Further, the kangaroo industry in this State is subject to strict animal welfare licensing requirements issued by the Office of Environment and Heritage. Licensees must pass shooting accuracy tests to ensure swift and humane killing of animals and undertake mandated training, which includes an animal welfare component. It is pleasing to update the House on the support the NSW Food Authority delivers to industry to help compliance at a relatively low cost while at the same time ensuring the health of the people in New South Wales.

ARNCLIFFE PEDESTRIAN TUNNEL

Dr MEHREEN FARUQI: My question without notice is directed to the Minister for Roads, Maritime and Freight. Is the Arncliffe pedestrian tunnel still on track to cost \$17 million? Will the Minister confirm whether there have been no cost blowouts?

The Hon. DUNCAN GAY: The last information I have is that it is on track to be completed.

The Hon. Shaoquett Moselmane: There is a track but there is no completion.

The Hon. DUNCAN GAY: Those opposite promised it. This is a project that protects the students of the school. The Labor Whip is casting doubt on this project, claiming to represent Rockdale yet saying that this project is not wanted. Is that right? Is that what the member is saying? The Hon. Walt Secord says he loves it. I am with Walt because it is a good project.

The Hon. Greg Donnelly: That is a first.

The Hon. DUNCAN GAY: It is a first, but it is a good project. It is an absolutely essential project. My understanding is that it is on time and on budget, but I will certainly check and get back to the member.

ELECTRICITY PRICES AND IRRIGATORS

The Hon. MICK VEITCH: My question without notice is directed to the Minister for Primary Industries, and Minister for Lands and Water. I refer to the statement of Tom Chesson, the National Irrigator's Council chief executive officer, that the Government decision to appeal the Australian Energy Regulator's decision is an "absolute disgrace" and further that "energy and electricity prices are crippling irrigated agricultural sector's ability to function". What action has the Minister taken to ensure that irrigators will not face increased electricity prices?

The Hon. NIALL BLAIR: I thank the Hon. Mick Veitch for his question. In response to what have I done to assist irrigators to be more efficient in delivering the primary industry products that they produce in New South Wales, I was in Leeton last week. I was joined by the Federal Parliamentary Secretary responsible for water, Bob Baldwin. We went to an irrigation farm and announced jointly \$263 million to fund on-farm efficiency programs for irrigators across the southern part of the Murray-Darling Basin in New South Wales. Of that amount, \$40 million came from New South Wales. This is something that the irrigators made application for and the Government is now funding these on-farm efficiency programs. That is exactly what I am doing. I am going out there to make sure that when these farmers turn their pumps on and do what they do best, they are doing it in the most efficient way possible. Having on-farm efficiency programs, reducing not only the amount of water but also other input costs, is exactly what I am doing.

I know that the Deputy Premier answered a similar question in the other place 20 minutes ago. He gave a detailed answer as to what the Government is doing about the Australian Energy Regulator [AER]. The Hon. Mick Veitch asked me what I am doing to reduce the bills. I am making sure that the Government is supporting projects on-farm, reducing water and creating savings that can be returned to the environment. The Government is making sure farmers can get on and do what they are doing, and that is something I am directly doing. I was happy to be in Leeton last week with a range of stakeholders applauding these products. What am I doing? I am continuing to do what I have been asked to do by the Premier and the Deputy Premier in my portfolio: I am supporting primary producers and making sure that when the Government spends money in the area of water savings it is not about taking productive water out of the system just to watch it float down the river to another State; it is about making sure that we support the communities that rely upon the irrigation industry.

That is what the Government is doing. Some \$263 million is going towards on-farm projects to make sure that when farmers turn the pumps on they get a return on what they do with that water. When farmers turn the pumps on they make sure that the communities that rely upon those irrigation businesses are supported. This is the absolute example of a triple bottom line. This is good for our producers; it is making sure that they have productive water. This is good for the social fabric of those communities that rely upon these businesses. It is returning water to the environment. This is how the Government delivers a triple bottom line—by going out there and telling farmers that they will be supported doing what they do best and making sure their communities are not crippled as a result whilst returning water to the environment. Opposition members should stand up and tell me what they are doing to support those communities.

COLYTON TRAFFIC MANAGEMENT

The Hon. LOU AMATO: My question without notice is addressed to the Minister for Roads, Maritime and Freight. Will the Minister update the House on the upgrade of the Hewitt Street and Roper Road, Colyton, intersection? Will he advise of any other similar upgrades to help reduce congestion for Sydney motorists?

The Hon. DUNCAN GAY: This is a real issue. I pay tribute to the Hon. Lou Amato not only for his question but also for showing the Opposition frontbench how it is done. This is a timely question. Yesterday the

Hon. Daniel Mookhey asked me a question about Roper Road and I said I would come back with an answer today. The New South Wales Government has injected historical levels of funding into Western Sydney roads, shaming Labor's neglect of the region for 16 years. The member for Londonderry, Prue Car, and the shadow Minister for Roads, Jodi McKay, have been making some damning claims on Facebook and in the local paper about this Roper Road upgrade. Without casting aspersions—they are wrong. It is just spin and scaremongering, but we are not shocked.

Let me make it clear: the Roper Road and Hewitt Street intersection upgrade is part of the New South Wales Government's \$100 million four-year safety program and planning is already underway. This financial year we are designing the major improvements at this intersection. Once the design and planning work is finalised the work will be carried out. Reputable upgrades require planning. It takes more than just putting out glossy brochures, which those opposite did at this intersection year after year after year. The money is there and the planning is underway. However, the Government does not stop at congestion-busting in Londonderry. We have a \$300 million congestion-busting pinch point program.

The Hon. Lynda Voltz: Remember when they were going to dig out Parramatta Road?

The Hon. DUNCAN GAY: If the Hon. Lynda Voltz listens, she will learn. The program has had remarkable levels of funding poured into it this financial year alone. Some of the pinch point work the Government has underway at the moment includes a \$950,000 project to extend the right-turn bay at Mamre Road on the M4 Western Motorway, a \$1.5 million project to extend the right-turn bay on Milperra Road into the River Road at Revesby and an estimated \$20 million project to widen Boundary Street at Roseville from the Pacific Highway to Melnotte Avenue. Some projects finished in the last financial year include a \$1.5 million project to install additional lanes on Mona Vale Road between Foley Street and Daydream Street and a \$2 million project at the M4 Western Motorway and Russell Street interchange to upgrade at Leonay to build traffic lights activated by queue detectors at the roundabout.

There is more. As members can see, this Government plans, builds and completes congestion-busting programs. The Roper Road and Hewitt Street intersection is just one of many that we are delivering to help New South Wales motorists get home to their families sooner. Some of the other projects—and I promise to list them because I know everyone is interested, particularly the local member—include \$3 million to continue the widening project on Boundary Street at the rail bridge in Roseville; \$1.5 million to complete efficiency improvements at the Hume Highway and Stacey Street in Chullora—these are great; \$5.9 million to complete the upgrade of the intersections on Richmond Road at George Street and The Northern Road; \$1.9 million—*[Time expired.]*

LOCKOUT LAWS

The Hon. PAUL GREEN: My question without notice is directed to the Minister for Roads, Maritime and Freight, representing the Premier. Will the Minister update the House as to the statistics for alcohol-related crime in the central business district entertainment lockout areas, specifically for comparable time periods before and after the introduction of the lockouts?

The Hon. DUNCAN GAY: I thank the honourable member for his important question. Whilst I will take on notice a large part of his question regarding the statistics, I think the result is obvious to anyone—it is obvious when we start to get complaints that we were too harsh in what we did. It is always hard to get the balance right. We moved in with community support and, dare I say, Opposition support at the time. I think that needs to be acknowledged. I think every fair-minded person would say the result we have had is as good as, if not better than, we expected.

When we see the head of St Vincent's Hospital's accident and emergency department on television saying that it is working—a person that dedicates his life to saving lives and has one of the toughest gigs in this State—I think it is obvious that it has been a success. With everything that we do, sometimes we have to go back and see if it is working in the places where we need it to be, to check whether any tweaks need to be made or whether there are unforeseen ramifications to businesses, et cetera. That is the sort of thing that a responsible government should do and will do in the coming years. I thank the honourable member for his question. As I indicated, I will go to the Premier and probably the Deputy Premier on the full content of the question to obtain those statistics.

WARREN DUNCAN, ABC CHINA CORRESPONDENT

The Hon. SHAOQUETT MOSELMANE: My question without notice is directed to the Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism. Why was well-respected and prominent former ABC Radio Beijing correspondent Warren Duncan, who has faithfully served multicultural and ethnic communities in New South Wales, removed after more than 25 years in the public service?

The Hon. JOHN AJAKA: I thank the honourable member for his question. Firstly, I state that clearly this is an operational matter and one that I would—

The Hon. Greg Donnelly: Oh, it's the staff!

The Hon. JOHN AJAKA: Clearly it is an operational matter. The Hon. Greg Donnelly would be the first to say it was an operational matter. I do not accept everything that is being stated in the question by the Hon. Shaoquett Moselmane. I will take the question on notice and I will report back to the House.

TECH SAVVY SENIORS PROGRAM

The Hon. GREG PEARCE: I address my question without notice to the Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism. Will the Minister outline the Tech Savvy Seniors culturally and linguistically diverse training program?

The Hon. JOHN AJAKA: I thank the honourable member for his question. It is sad to hear that those opposite have no interest in the culturally and linguistically diverse [CALD] communities—judging by their comments, they clearly have no interest. Tech Savvy Seniors is a successful program under the New South Wales Government's Ageing Strategy, which is delivered in partnership with Telstra. The program provides free or low-cost training through a network of community colleges and libraries to help seniors learn to use computers, tablets and smartphones. I am proud to say that, since the Government launched the Tech Savvy Seniors program in January 2013, more than 17,000 seniors across New South Wales have participated.

I am also proud that Tech Savvy Seniors was significantly enhanced as part of this Government's election commitments within my Ageing Ministry. We are providing \$2 million to turbocharge the Tech Savvy Seniors program, providing 38,000 places to seniors over four years. Given that I am also the Minister for Multiculturalism, I am pleased to advise the House that in February 2015 the Tech Savvy Seniors program was expanded to provide technology training in languages other than English. We acknowledge the diversity of our seniors in New South Wales and are committed to continuing to do all we can to remove any barriers to make it easier for people from non-English speaking backgrounds to get the assistance and services they need.

The Tech Savvy Seniors culturally and linguistically diverse program aims to equip trainees from non-English-speaking backgrounds with lifelong skills that will enable them to use technology in a range of ways. The program enriches their social lives and employment opportunities, and assists participants to continue making meaningful contributions to society. Fifteen metropolitan library locations currently offer Tech Savvy Seniors training in Arabic, Cantonese, Mandarin, Dari, Hindi and Vietnamese. Quick reference learning guides in those languages are available through all libraries across the State.

To date, around 950 seniors from CALD communities and backgrounds have enrolled and approximately 800 seniors have completed the training. I recently attended a graduation ceremony at Fairfield City Library's Cabramatta branch for some of the first students to complete training in Cantonese and Vietnamese. It was a wonderful event with around 30 seniors receiving graduation certificates at a ceremony attended by their friends and family. Following the ceremony, one of the students, Kwok-Hing Cheung, spoke about the value and usefulness of the program. Mr Cheung said that for the first time he now has an email address and a Facebook account. He also bought an iPad and was inspired to enrol in further computer courses.

Increasing the number of seniors who use technology opens up new methods of social interaction. Helping older people to enjoy the benefits of smartphones, tablets, Skype and Facebook is one of the best things we can do to keep people connected. It is well known that maintaining social connections supports good health and wellbeing. Efforts to reach isolated or disadvantaged seniors extend those benefits to more people. The in-language programs have been enthusiastically embraced by local communities, and additional languages and locations will be rolled out next year. I thank the Ethnic Communities' Council of NSW, the State Library and Telstra for their assistance and support in the development and delivery of the Tech Savvy Seniors culturally and linguistically diverse program.

ALCOHOL ADVERTISING

Reverend the Hon. FRED NILE: I ask the Minister for Roads, Maritime and Freight, representing the Premier, a question without notice. Is the Government aware that reports show young people who are bombarded with alcohol advertising demonstrate increases in drinking levels? As the alcohol advertising industry is currently self-regulated, when will the Government stop allowing alcohol companies to freely advertise to our young people, especially during sporting games? Can the Minister confirm the Government will reconsider my Alcoholic Beverages Advertising Prohibition Bill, which will shield our young people from an industry that exploits them and protect them from the insidiousness of alcohol abuse?

The Hon. DUNCAN GAY: I thank the honourable member for his question. The honourable member and I have served in this House together for 27 years. He has never diverted from the path that he espoused in that question, which reflects his genuine interest in and concern about alcohol and its ramifications for families and young people. He is to be commended for having a path, sticking to a principle and following it for that amount of time. Advertising and its ramifications are a concern, but I was asked to approach the Premier for an answer. I will do so and return with a reply as soon as possible.

SOCIAL HOUSING

The Hon. SOPHIE COTSIS: My question without notice is directed to the Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism. Given that the Government has acknowledged that more than one-third of social housing tenants have a disability, what steps have been taken to ensure that people with a disability can access appropriate and affordable housing?

The Hon. JOHN AJAKA: If the honourable member did her research she would be well aware that this Government is taking more action on housing for people with disability than was previously undertaken by the former Government. This Government is also working closely with the Commonwealth Government and the National Disability Insurance Agency [NDIA] in relation to housing for people with disability. Hardly a week goes by when I do not attend a ribbon-cutting ceremony or sod-turning ceremony for new accommodation for people with disability. It is not only about building accommodation for people with disability who currently have no accommodation. We are also ensuring that people with disability who are living in old or inadequate accommodation are being relocated at their choice to new accommodation that is more appropriate.

Like everyone across the nation who is working to make the National Disability Insurance Scheme [NDIS] a reality, I am always concerned about providing appropriate accommodation for people with disability who enter the scheme. I am on record as being the first State Minister to agree to meet with the organisers of the national campaign "Every Australian Counts" to hear about housing challenges experienced by its supporters. I am on record as having raised this issue with my counterpart and Federal Minister Senator Mitch Fifield at the last meeting of the Disability Reform Council in Melbourne. The role of housing in the National Insurance Disability Scheme [NDIS] is a critical policy issue for the ongoing design of the scheme, not only for this State but all States, Territories and the Commonwealth. Representatives from the States, Territories and the Commonwealth have agreed to work in collaboration with the National Disability Insurance Agency on a plan for resolving outstanding national policy issues, including the role of specialist accommodation support.

This work will include developing and testing innovative accommodation pilots at trial sites that help expand the supply of appropriate and sustainable integrated housing and support models for people with disability. The pilots will provide us with evidence about how different models contribute to outcomes for NDIS participants. I look forward to reporting back to the House the outcomes from my meeting with the delegation from "Every Australian Counts". I also reassure the sector that New South Wales has been working with the NDIA to pilot new models in the Hunter trial and it will also continue to participate in the detailed work needed to identify and price asset-related costs for participants in the scheme. The efforts of the NDIS in relation to specialist disability housing will be in addition to the ongoing mainstream housing efforts of New South Wales. This State will continue to work closely with the Commonwealth and other jurisdictions to ensure that this element of the NDIS is finalised as soon as possible.

The Hon. SOPHIE COTSIS: I ask a supplementary question. Could the Minister elucidate on his answer and provide the House with the number and location of disability housing that was built in the last financial year?

The Hon. JOHN AJAKA: Much of this information is available. I suggest that the Hon. Sophie Cotsis does her research first. I am not doing her homework for her.

FRUIT GROWING INDUSTRY

Mr SCOT MacDONALD: My question without notice is addressed to the Minister for Primary Industries, and Minister for Lands and Water. Can he update the House on what the New South Wales Government is doing to help the State's fruit growers protect their livelihood?

The Hon. NIALL BLAIR: I recently joined the Minister for the Environment, Mark Speakman, and NSW Farmers Horticulture Committee Chair Brett Guthrey to announce an additional \$1 million to continue the successful flying fox netting program, which is helping farmers protect their valuable fruit crops. This brings the total investment committed to this crucial program to \$6 million. Fruit growers across this State's premier fruit growing regions, including the Central West, south-west, North Coast and Sydney Basin, now have access to the important funding that has delivered proven results across New South Wales.

I had the great pleasure of meeting Cedric Lethbridge from Bilpin Springs Orchard and saw firsthand how this program has protected his crop. Cedric was able to show me the devastating impact flying foxes have had on previous crops, such as an entire crop being wiped out in two nights. As a result of installing flying fox netting over the past couple years he has been able to secure his orchard and this year has been his best season yet. Not only does the netting provide important protection from flying foxes, but it is also highly effective in protecting crops against damage from hail and birds.

One beneficiary of the most recent funding is the State's booming cider industry. The cider industry is expected to grow by 20 per cent over the next five years and I am particularly proud to be working with orchardists to find new and innovative ways to help reduce the impact of flying foxes on the State's orchards. While visiting Bilpin, I spent time with Shane and Tessa McLaughlin from Hillbilly Cider. They are producing some of the best cider in the world and have the trophy cabinet to prove it. It was great to see how a program such as the flying fox netting program protects local crops and promotes local businesses such as Hillbilly Cider.

I am pleased to inform the House that 103 applications for funding have been approved, which will cover an area of 481 hectares. The important program covers half the cost of installing netting, which is capped at \$20,000 per hectare, giving producers the assurance they need that their crops and crucial income are better protected. The program also allows for infrastructure upgrades to bring existing non-compliant netting up to specifications. The New South Wales horticulture industry is vital to maintaining this State's number one reputation, producing more than \$1 billion in farm gate value and employing more than 10,000 people across the State.

The flying fox netting program was first implemented by this Government in July 2012 following an independent review of the flying fox licensing regime. The review found exclusion netting programs to be the most effective protection against damage from flying foxes. In 2014 the Government extended the exclusion netting program to the whole of the State and to cover throwover netting also, which is often a more practical solution for fruit growers. The scheme has proven extremely popular but its funds are limited. If fruit growers are looking to install the protective nets, prior to commencing any works they should contact the NSW Rural Assistance Authority to discuss their application. The State's \$100 million apple industry is worth protecting, as are the livelihoods of those such as Shane and Tessa McLaughlin. I am proud that this Government is continuing to deliver this program and protections for businesses.

KANGAROO MANAGEMENT PLAN

The Hon. MARK PEARSON: My question without notice is directed to the Minister for Ageing, representing the Minister for the Environment. Is the Minister aware of any parliamentary oversight and review in the past 20 years to determine whether the New South Wales kangaroo management plans have provided for the sustainable and humane treatment of kangaroos, including their joeys? If not, will the Minister establish a committee to examine these issues prior to the development of the New South Wales Kangaroo Management Plan to commence in 2016, especially considering that Russia has implemented three consecutive bans on imports over the past seven years based on serious hygiene and welfare concerns, and that there are now four European countries considering bans of kangaroo meat?

The Hon. JOHN AJAKA: I have not been here for the last 20 years, so it is a little difficult. I have been in this Parliament for about eight years. There are parts of the question I will take on notice and refer to the Minister for the Environment, Minister for Heritage, and Assistant Minister for Planning. I am informed that the

Commonwealth Department of Health has recorded only one incident of a food-borne illness involving kangaroo. That is based on data collected Australia wide between 2001 and 2012. This one incident affected seven people in the Northern Territory and did not involve commercially harvested product.

All kangaroo game meat processed, manufactured or sold in New South Wales must comply with the Australian Standard for Hygienic Production of Game Meat for Human Consumption. The New South Wales Food Authority licenses kangaroo harvesters and processors in New South Wales, and those facilities must be able to show traceability of product throughout the chain, from harvest to the plate. Government authorities, including the New South Wales Food Authority, regularly inspect game meat processing facilities, field depots and harvesters. The authority's audit and inspection program ensures that kangaroo harvesters, chillers and processors comply with the food safety requirements set out in the specific food safety program that each business is required to have. This process provides a comprehensive assessment to ensure the business is operating its food safety program and that the program covers all aspects of food safety.

I am further informed that the minimum inspection frequency varies for different types of facilities. Harvesters are inspected once every two years, chillers are inspected once per year, processors are inspected once per year, and export processors are inspected once every six months. Despite the differences in inspection frequency, the authority requires all harvesting and processing facilities to consistently meet food safety standards. Additional inspections and appropriate enforcement action are taken in response to any breach, and the authority follows up these results to ensure identified defects have been rectified. In the period November 2013 to November 2014, inspections show that the New South Wales kangaroo industry had a compliance record of 97 per cent, with just two facilities showing an unacceptable result.

As kangaroos are native fauna, the Office of Environment and Heritage manages the commercial harvesting program to ensure kangaroos are culled humanely and that kangaroo populations are sustainable. Requirements for the humane slaughter of kangaroos are specified in the National Code of Practice for the Humane Shooting of Kangaroos for Commercial Purposes, and this code of practice is prescribed as a condition of licence by the Office of Environment and Heritage.

The Hon. DUNCAN GAY: I regret to inform the House that the time for questions has expired. If members have any further questions, I suggest they place them on notice.

ARNCLIFFE PEDESTRIAN TUNNEL

The Hon. DUNCAN GAY: Earlier in question time Dr Mehreen Faruqi asked me a question about the Arncliffe pedestrian crossing. I am informed that the link is on time and on budget. We hope that the Hon. Shaoquett Moselmane comes to support this project, which the Hon. Walt Secord already supports.

The Hon. Sophie Cotsis: Will John be at the ribbon cutting?

The Hon. DUNCAN GAY: I would hope so. I am going to be there because it is a terrific project that protects young people, and anything that we can do to protect young people is important.

CHINESE NEW YEAR TWILIGHT PARADE

The Hon. DUNCAN GAY: The Hon. Walt Secord asked me a question on the Chinese New Year Parade.

The Hon. Walt Secord: The Year of the Monkey.

The Hon. DUNCAN GAY: He keeps telling us that it is the Year of the Monkey. Maybe we did not need to know that; we probably did. I am informed that Transport for NSW has made an offer to work with all parties to ensure that we can welcome in the Year of the Monkey with the cultural flair that Sydney is famous for. We think we have come up with a viable new route to enable this great display to continue and keep Sydney open for business. We have provided the new route to the event organisers to consider. Sydney is a major destination and we are willing to do whatever is possible to accommodate big events—and this is a big, important event for our city.

The proposed 2016 route is slightly shorter, but reaches a good balance between holding the event, maintaining the provision of key CBD public transport and road corridors, and building the light rail project. We

have already worked successfully with the RSL to select an alternative route for the Anzac Day march between the Martin Place Cenotaph and the War Memorial in Hyde Park. We recognise that light rail construction will have some impact on major events in the CBD but we are absolutely determined to keep Sydney vibrant and open for business throughout the coming years. We are committed to working with event organisers. No project is more important or better than this project; it has our total support. Wherever possible we will work with organisers of events to find alternative routes or locations for major events whilst the construction of the great light rail project is underway.

MULTICULTURAL NSW

The Hon. JOHN AJAKA: Earlier I was asked a question by the Hon. Shaoquett Moselmane about Mr Duncan. The organisational structure of Multicultural NSW is under review as a result of the new Act, name change and Harmony in Action strategic direction. I am informed that, as part of this, as an operational matter—as I indicated earlier—a voluntary redundancy program was offered to employees. I am informed that Mr Duncan expressed interest in this and accepted a voluntary redundancy. I find it outrageous that the term used in the question was that he was "removed". It was implied that his employment was, in some form, terminated or that he was sacked. He accepted a voluntary redundancy. I think it is outrageous that the Hon. Shaoquett Moselmane would bring some form of disrepute to Mr Duncan by saying that in some way he was removed from his employment when he chose to accept a voluntary redundancy after many years of great service to multicultural New South Wales.

Questions without notice concluded.

HEALTH SERVICES AMENDMENT (AMBULANCE SERVICES) BILL 2015

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

Motion by the Hon. Duncan Gay agreed to:

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

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

BIOSECURITY BILL 2015

Bill introduced, and read a first time and ordered to be printed on motion by the Hon. Niall Blair.

Second Reading

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) [3.39 p.m.]: I move:

That this bill be now read a second time.

The Biosecurity Bill 2015 is a significant piece of modern legislation that will provide New South Wales with the essential tools and powers to manage pests, diseases, weeds and contaminants that threaten the New South Wales economy, environment and community. The bill has been thoughtfully developed over a number of years and provides a sound, flexible framework to efficiently respond to biosecurity risks regardless of whether it is an emergency or a longer-term management issue. In 2013 the New South Wales Government released the New South Wales biosecurity strategy, which is based on the principle that biosecurity is everyone's responsibility. A major biosecurity event can have far-reaching implications from on-farm losses through to impacts on the entire nation's economy through market access and trade restrictions.

The equine influenza outbreak in 2007 did not only impact horse owners. A major cascading effect was felt as horseracing was cancelled across New South Wales. Small businesses from café owners and milliners to taxi drivers were all affected. The avian influenza outbreak in Young last year had a devastating effect. In addition to the direct impacts on the two businesses where it was detected, trade was disrupted and consumers inconvenienced as egg supply was limited, especially during the lead-up to Christmas. While it is likely the

disease first entered the free range flock through contact with wild birds, as it is a highly contagious disease and can be transferred in equipment or clothes, good on-farm biosecurity practices are critical to prevent further spread.

The bill supports the nationally agreed principle that biosecurity is a shared responsibility between governments, industries and individuals. We all need to take action to mitigate and manage biosecurity risks. Pests, weeds and diseases do not recognise jurisdictional boundaries or fences. Therefore, it is crucial that we adopt a tenure-neutral approach to biosecurity risk management and have legislation that is compatible with our neighbours. We also need to be working together at a regional level to achieve shared outcomes as efficiently and effectively as possible. These principles are the cornerstone of the bill. The bill will repeal, either in whole or in part, 14 pieces of existing legislation. These Acts will be replaced with a single Act that has flexibility to respond effectively to all biosecurity situations. This equates to the repeal of more than 570 years of old legislation.

Our world-class biosecurity system will be strengthened and our State cemented as a leader in biosecurity. The bill will help New South Wales maintain its enviable market access and reputation for high-quality, safe and disease-free food and fibre. The bill has defined key concepts such as biosecurity matter, carriers and biosecurity impact. It includes a biosecurity duty that requires any person who deals with biosecurity matter or a carrier who knows, or should reasonably know, the biosecurity risk posed or likely to be posed to ensure that as far as reasonably practicable the biosecurity risk is prevented, eliminated or minimised. The bill provides clear guidance on what is meant by "as far as reasonably practicable".

In practical terms, this means that, for example, where a property has been signposted advising of any sanitary applications or other actions that must be taken before entry, any person entering that property will be on notice about what they need to do to discharge their biosecurity duty and may be prosecuted under the Act if they fail to do so. Let me be clear. Compliance action will be taken in relation to the biosecurity risk that has arisen or may arise due to a person not complying with the biosecurity requirements of that property, regardless of the purpose of that entry. Another example of where the biosecurity duty comes into play could be in relation to weeds. If a particular weed has been determined to be a priority for a region by, for example, either the State or regional weeds committee, the occupier of a property within that region will be required to comply with the regulatory management arrangements that are in place to eradicate or suppress the spread of that weed.

However, certain weeds are endemic and widespread, and there is little risk that the weeds would have an adverse impact on surrounding property, so a person's duty to prevent or minimise the risk is proportionate to the impact. This could mean that the person would not have to do anything or they may just need to control the weed along their boundary to minimise the risk of it spreading to the adjoining property. The bill does not require prescriptive lists before action can be taken to respond to a biosecurity risk. The tools prescribed in the bill are flexible enough to allow a biosecurity response to be mounted, regardless of whether something is included on a list or the subject of another legal instrument. This means that preventative or mitigation action can be taken immediately, reducing the risk of spread and impact in the initial critical period.

Longer term management controls can also be implemented, regardless of whether the biosecurity matter in question is on a list. This will result in less confusion for stakeholders and improved administrative and operational efficiencies. The bill does, however, include a prohibited matter list as a schedule to the Act that can be amended by regulation. Prohibited matter is matter that we do not want in New South Wales or in a part of the State because it will result in a significant adverse impact on the economy, environment or community, for example, foot and mouth disease, parthenium weed and the highly pathogenic avian influenza. Matter that only presents occasionally, such as anthrax and cattle tick, is also listed as prohibited matter as it can have a significant adverse effect on the economy, environment or community, and active programs are in place to eradicate every new outbreak or infestation of these problem pests and diseases.

Before something is included on the prohibited matter list, consideration of the potential risk and type of management arrangements that may be required will occur. It is an offence for any person to deal with prohibited matter. As I said, the bill has been a long time in the making, and for good reason. In October 2014 the Biosecurity Bill 2014 was introduced into the New South Wales Parliament. That bill was only the first stage of a two-stage process that did not include the savings, transitional and consequential amendments. Unfortunately, despite broad support for the bill, it did not complete its journey by the end of the Parliament's sitting period. We have used the past 10 months to seek further internal and external stakeholder input on issues raised during 2014 resulting in some minor improvement amendments. The bill I present now is the complete and final bill incorporating the savings, transitional and consequential amendments.

Initial consultation with key stakeholders began in 2013, and then we released the proposed framework for a New South Wales biosecurity Act for public consultation in 2014. To ensure that key industry stakeholders maintain an ongoing proactive role in the development of the new biosecurity legislation and to give greater transparency to the process, we have committed to, and are in the process of, establishing an independent skills-based biosecurity advisory committee. The establishment of this committee also makes up part of the historic memorandum of understanding that the New South Wales Liberal-Nationals Government signed with New South Wales Farmers. While on New South Wales Farmers, I must thank them for their input and support for this bill, which, like us, they recognise is critical to the future of our State's \$12 billion primary industry sector.

The committee will be tasked with assisting with the development, implementation and operation of the new biosecurity legislation. It will provide a central point to obtain advice on stakeholder engagement and consultation and provide an opportunity for independent consideration of the proposed regulatory approach for future management of biosecurity matter in New South Wales. The committee will be encouraged to engage and consult broadly to ensure that the views of all stakeholders are taken into consideration as we roll out this important legislation. It is important, however, that the tools used to manage biosecurity matter are proportionate to the risk and applied at the most effective point in the recycle.

The committee will be independently chaired and will include representatives from the Department of Primary Industries, the Office of Environment and Heritage, Local Land Services, the Game and Pest Management Advisory Board, New South Wales Farmers and the Nature Conservation Council, which will represent environmental groups at this stage. These representatives will collectively have knowledge and skills in the areas of biosecurity, science, economics, community education and engagement.

I turn now to how this bill will enable us to respond in emergencies. In such instances, strong and decisive action is required immediately and it is appropriate that Government lead such a response. If such action was not taken, highly pathogenic and/or contagious diseases such as avian influenza or mad cow disease could quickly spread and cripple industries with devastating impacts on the environment and economy. This bill includes two tools that can be activated depending on the severity of the situation. The Secretary of the Department of Industry may make an emergency order if he is satisfied or reasonably suspects that there is a current or imminent biosecurity risk that may have a significant biosecurity impact. Also, if an authorised officer reasonably suspects that an emergency is occurring or is imminent, he or she will be able to activate some limited emergency powers until an emergency order is made by the Secretary.

A Hendra outbreak is a classic example of where these powers may be exercised. If an infection was suspected in a horse, since the virus is zoonotic and often fatal to humans, measures to restrict access by humans to infected or at-risk animals would be immediately necessary. As first responders to an emergency, I would like to assure members that appropriate training and governance arrangements will be implemented to ensure that these powers are used as intended. An emergency order can be made for up to six months. The first objective is to isolate an affected or potentially affected area or biosecurity matter, limit the spread of the emergency biosecurity matter and ultimately eradicate it. This is similar to what occurred when we had that dreadful outbreak of equine influenza that I referred to earlier. The emergency order will allow for zones to be established so that less stringent rules can apply where appropriate.

The emergency powers will also allow for the destruction of animals for welfare reasons. This may be necessary where we have an ongoing biosecurity outbreak such as African swine fever. The pigs will need to be isolated for a period. During a protracted response, piglets may be born resulting in too many animals for the available space or issues may arise where markets just cannot accept the product regardless of whether it is infected or not. Emergency permits may also be issued to allow for restricted movement into and out of the area if considered appropriate. These measures will allow the experts to get on with the job of eradicating the risk whilst minimising the disruption to business and the community as much as possible.

A control order is another tool that can be activated when swift action is required in response to a biosecurity risk or when transitioning from an emergency situation where longer-term management is required but eradication is still considered feasible. A control order can apply to the whole or parts of the State. The order may be issued to eradicate or may be for preventative or interim measures. The order will be issued for the length of time considered necessary to achieve an outcome but no longer than five years. Five years is considered appropriate as some plant species have varying germination periods. We cannot measure the success until that cycle is complete. If this bill had commenced, management of the red imported fire ant response currently underway at Port Botany would have transitioned from an emergency order to a control order. Initial

treatment of the infestation has occurred but we need to continue surveillance action for a period just to be sure we have eradicated the infestation. If management action stops too early, the program may lose momentum and compromise the end goal or eradication.

Biosecurity zones may be made to manage, reduce or eradicate a biosecurity risk or impact over an extended period of time. The actions and limitations that may be required within a zone are similar to those for a control order and can apply to the whole or part of the State. The main difference between a biosecurity zone and a control order is that biosecurity zones are primarily for long-term management of a particular biosecurity matter, and that they are made by regulation and therefore subject to the Subordinate Legislation Act. A biosecurity zone could be used to manage Queensland fruit fly, an endemic pest in much of eastern Australia that can seriously impact market access. Biosecurity zones and mandatory measures will be developed in consultation with relevant stakeholders, including relevant levels of government, community, industry and professional associations. As always, any regulations made under this bill will also be subject to parliamentary scrutiny. We will continue to implement a risk-based approach to compliance and enforcement in line with the Quality Regulatory Services Initiative.

Authorised officers will continue to play a crucial role in promoting biosecurity as a shared responsibility, identifying risks and assisting people in the discharge of their biosecurity duties and other obligations under the bill. Powers of authorised officers in this bill reflect those that are currently available under current legislation. There has been no softening of these powers and there are clear limitations prescribed in the bill when powers can be exercised. Authorised officers will continue to have balanced and flexible enforcement tools available, which range from accepting undertakings or directions orders to penalty infringement notices. Offences in the bill reflect the high risk and impact of someone not doing the right thing, including executive liability offences, and are based on two categories or tiers. A category one offence is an offence that is committed intentionally or recklessly and attracts a higher penalty—up to \$1.1 million for individuals or three years in jail—than a category two offence, which is a strict liability offence and can attract penalties up to \$220,000 for individuals.

Authorised officers will have the power to enter land and to carry out surveillance or monitoring work. The bill provides instances when these activities can occur and that surveillance and monitoring of people is not permitted. Authorised officers may be appointed by the Secretary and, in the case of authorised officers with specific responsibilities in relation to weeds, by a local control authority consistent with current arrangements under the Noxious Weeds Act. Registration is an important way to manage high-risk species. It allows for more efficient dissemination of advisory material, enhanced tracing capability and the ability to notify about relevant developments in a timely manner. Registration is not new. For example, beekeepers and persons who keep certain non-indigenous animals are currently required to be registered.

Registration provisions are included in this bill as it is an important way of tracing biosecurity matter and persons who are in control of that matter should there be a risk or biosecurity event. For example, if an authorised officer finds a beehive in a State forest infected with a disease, it is important to be able to contact the owner so appropriate action can be taken to mitigate the spread of that disease. Where a thing such as a beehive is seized, and after making reasonable inquiries and efforts the owner cannot be found, the bill provides the power to sell or destroy that thing. Sometime in the future it may be appropriate to register people who keep or acquire a certain type of plant material such as for high-risk nurseries or, due to the increased risk of avian influenza outbreaks, it may be appropriate to register people or businesses who keep a threshold number of birds.

If a person can no longer care for a registered animal, it is not appropriate that government absorb that cost. Additionally, we do not want to create a situation where the health of the animal may be compromised due to lack of care. As such this bill includes a provision that may be issued via condition of registration, if appropriate, to require a registered person or entity to take out and maintain a policy of insurance or evidence of alternative arrangements to ensure continuity of care for a registered animal. The bill also makes provision for dealings with biosecurity matter that will be prohibited. These are set out in schedule 3 to the bill and include dealing with a non-Indigenous animal that is currently classified under the Non-Indigenous Animals Regulation as a category 1a or 1b animal. Examples of a category 1a animal include the Brazilian giant tortoise and the blue monkey. An example of a category 1b animal is the red-billed quelea, which is quite a pretty red-beaked bird that is found in Sub-Saharan Africa. Outside its normal environment it can form flocks of thousands of birds and cause millions of dollars of damage to the grain industry—similar to locust plagues.

Prohibited dealings also include dealing with a non-Indigenous animal that is currently classified as a category 2 or 3a animal, unless that dealing is for permitted exhibition or research purposes. Examples of

category 2 and 3a non-Indigenous animals are tigers, lions, crab-eating macaques and black-handed spider monkeys, northern palm squirrels and the rhesus macaques. While new registrations with respect to these animals will be prohibited, transitional provisions within this bill will enable persons who currently have a licence to keep a category 2 and 3a animal.

The bill will also allow for recognition of registrations in other jurisdictions—for example, short-term keeping of bees that are registered in Victoria, or if an animal needs to be brought into New South Wales for veterinary care. This can be accommodated either via an exemption or the issue of a permit. The bill also includes a regulation-making power that will ensure New South Wales can continue to recognise existing schemes such as the National Livestock Identification System, property identification codes and registers and for additional schemes to be implemented in the future if identification and tracing schemes are required for other biosecurity matter or carriers of biosecurity matter.

It is important that New South Wales continues to demonstrate products produced in New South Wales are free of diseases and pests. This State currently participates in the national Interstate Certification Assurance [ICA] Scheme for horticulture. The bill provides a legislative base for this scheme whereby certificates are issued to certify plant health before product is transported interstate. The certificates provide information that a product is free from certain pest and diseases or it has been treated in a particular manner in accordance with trade requirements—tomatoes being transported to South Australia are a good example. Each ICA arrangement is based on documented operational procedures developed by the Department of Primary Industries in conjunction with industry and interstate quarantine authorities.

Businesses can be accredited to self-certify meaning government regulatory officers do not have to supervise the treatment of product and then certify that the product is free from pest or disease. The Government undertakes an auditing role instead. This type of scheme promotes shared responsibility between industry and government and reduces red tape and costs for all concerned. The bill also provides for the appointment of accreditation authorities and auditors to ensure good governance and compliance with the proposed legislation. Audits provide an opportunity to take a strategic and risk-based approach to compliance activity and market access, and provide an incentive for people to do the right thing. If someone is doing the right thing, the frequency at which they are audited will be lower than for those who are found to be consistently in breach of requirements. Fewer audits will result in cost savings to business and allow government to focus on priority areas.

New South Wales is a signatory to the Inter-Governmental Agreement on Biosecurity [IGAB], which was developed to improve the national biosecurity system by identifying the roles and responsibilities of governments. This bill is supported by three national response agreements to threats to animals, plants and the environment. The bill is consistent with promoting national collaboration, risk-based management, increasing efficiency and decreasing regulation, and shared responsibility between government, industry and the community. It outlines the priority areas for collaboration to minimise the impact of pests and disease on Australia's economy, environment and the community.

Sitting under IGAB are a number of deeds that outline actions and cost-sharing arrangements between jurisdictions and industries that are signatories to those deeds, should an emergency of national importance arise. This bill supports these arrangements, including arrangements in relation to compensation. It also provides a more consistent and equitable statutory compensation scheme for emergency situations that will apply across the biosecurity spectrum. The scheme does not preclude the payment of more generous compensation as agreed at a national level under industry and government cost-sharing arrangements. However, the circumstances where compensation may be paid are limited—for example, compensation may not be payable if the person contributed to the spread of the biosecurity matter that caused the emergency.

Local control authorities have played an important role in weed management and their functions are reflected in this bill. It is appropriate that they continue to participate in regional planning activities. The Local Land Services Act 2013 provides a statutory process for committees to be established at the regional level to assist with regional planning. Issue-specific committees can also be formed with representatives from government, industry and the committee as required. Actions identified under these regional plans can be given effect under this bill through the creation of biosecurity zones or control orders for higher priority actions, and through the general biosecurity duty for matters where the risk is considered less but the matter is still of interest at the regional level.

While local control authorities may appoint only authorised officers in respect of weed management, a broader power rests with the Secretary of the Department of Industry, whereby these officers can be authorised

to assist with, for example, emergencies or where a local control authority wishes to participate in pest management such as to control wild dogs or cane toads. Any such additional authorisation will be done in consultation with the relevant local control authority.

It is appropriate that those stakeholders who create or propagate risk or market failure contribute to the cost of minimising those risks. The bill therefore provides for the recovery of administrative costs and other amounts. The Biosecurity Strategy includes a threat decision tree that provides guidance on when government should be involved in a situation and who should pay. This process will be used to ensure costs are efficiently and equitably allocated. In closing, I reiterate that the new Biosecurity Act will expand the scope of our existing legislation to include protection of the economy, environment and community, consistent with our national commitments. This bill will strengthen the Government's regulatory framework for managing biosecurity activities and risks to the economy, environment and community. I thank everyone who has worked on the preparation of this bill. I particularly thank Bruce Christie and Di Watkins for their hard work and diligence in assisting to bring this legislation before the House. I commend this bill to the House.

Debate adjourned on motion by the Hon. Mick Veitch and set down as an order of the day for a future day.

TABLING OF PAPERS

The Hon. John Ajaka tabled the following paper:

Disability Inclusion Act 2014—NSW Disability Inclusion Plan of the Department of Family and Community Services.

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

WORKERS COMPENSATION AMENDMENT BILL 2015

STATE INSURANCE AND CARE GOVERNANCE BILL 2015

Second Reading

The Hon. JOHN AJAKA (Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism) [4.07 p.m.], on behalf of the Hon. Niall Blair: I move:

That these bills be now read a second time.

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

Leave granted.

These bills honour the commitment made by the Minister on 15 March 2015, that a re-elected Baird Government:

- Would immediately review the financial position of the workers compensation scheme following the election, and
- Out of that one-off review, of every dollar above the minimum surplus to keep the scheme sustainable, two-thirds would be invested in supporting injured workers and getting them back to work, with the balance being returned to business as lower premiums.

The Government will enhance benefits for injured workers, provide a performance discount for employers with good safety and return to work records and introduce three new organisations to operate and regulate the State's insurance schemes and regulate workplace safety.

In 2012 the scheme was in crisis with a \$4.1 billion deficit and businesses were facing premium rises of up to 28 per cent, with 12,000 jobs at risk.

Thanks to reforms introduced by this Government, the scheme now has assets exceeding its target funding ratio, the New South Wales return to work rate is higher, premiums have been reduced by an average 17 per cent and injured workers with the highest needs are receiving more benefits than before.

The Government is now in a position to return some of these funds to further support injured workers and get them back to work and to reward employers with an above average safety record with lower premiums.

The Government has considered the submissions to and recommendations of numerous recent parliamentary inquiries, held discussions with injured workers, and conducted surveys of businesses and injured workers.

We have also spoken to other stakeholders in the workers compensation system to understand their issues, experiences and suggestions for change.

While it is never possible to give everybody everything they may be looking for, the Baird Government has worked to be as well-informed as possible in identifying priorities for improving the system over coming months.

If someone is injured we need to provide them with the assistance they need to get back to work, or for those with more serious long-term injuries provide the support they need to live their lives with dignity.

Injured workers, employers, health professionals and other stakeholders currently have to deal with multiple parties with disparate goals and purposes, with the government paperwork and regulation to go along with it.

The system needs to have the customer and their needs and goals at the centre of decisions not at the end.

Fair. Sustainable. Customer-centric.

That is what the New South Wales workers compensation system should look like and this is exactly what the New South Wales Government will strive to achieve.

The benefit enhancements being introduced by the Government are focused on three simple objectives:

- supporting injured workers to recover and return to work,
- providing proper assistance to workers with the highest needs, and
- making sure that all changes to benefits will not compromise the financial sustainability of scheme.

These benefit changes are anticipated to benefit thousands of future and existing injured workers.

The Workers Compensation Amendment Bill 2015 will amend the Workers Compensation Act 1987 to deliver a range of improved benefits for injured workers and their families, and the employers of New South Wales.

Every workplace death is a tragedy. Every death is one too many impacting the family of the worker and many others.

Schedule 1 to the bill provides for a large increase in the amount paid to dependents of a worker who has died from \$524,000 to \$750,000. This is the most generous lump sum support package for families of workers who have died at work in Australia.

This will apply to any fatality that occurs from today onwards.

Funeral expenses are also increased from an amount of \$9,000 to \$15,000 to reflect current market costs. This recognises the need to support families and makes New South Wales one of the most generous systems in Australia.

Again this provision will apply from today.

Schedule 2 to the bill introduces a minimum safety net weekly payment for the most seriously injured workers.

The bill will ensure that the workers with the highest needs will receive a minimum amount of \$788 each week, which will comprise the benefit paid by their insurer and any post-injury earnings of the worker.

This will assist those workers with over 30 per cent permanent impairment who were on very low, pre-injury average weekly earnings and who may receive weekly payments for many years.

The bill introduces new terminology for seriously injured workers who have more than 30 per cent whole person impairment.

Injured workers with a permanent impairment of over 30 per cent will now be known as "workers with highest needs".

Workers who have more than 20 per cent whole person impairment will be referred to as "workers with high needs".

Schedule 2 to the bill also provides for a fairer system for review of work capacity decisions allowing injured workers to continue to receive weekly payments while their work capacity decision is under review by their insurer or WorkCover.

Currently, legal practitioners are unable to charge injured workers or insurers in connection with a review of a work capacity decision.

Schedule 2 paves the way for the payment of legal costs for legal advice on review of a work capacity decision to be permissible as prescribed by regulation.

The new section 44BF will require a regulation in order to be operative.

As the amount and point at which legal costs should be payable are important details I want input from stakeholders on, this amendment will allow for appropriate consultation to occur.

My intention is that the new State Insurance Regulatory Authority, in its role as the workers compensation regulator, will commence a process of consultation with stakeholders and the community about the content of a proposed regulation.

Schedule 2 also amends section 52 of the Workers Compensation Act to allow workers injured before retiring age to receive weekly payments for up to 12 months after reaching retiring age ... and allows for regulations to provide for variation of the calculation of pre-injury average weekly earnings, in order to reduce the complexity in some cases.

Schedule 3 to the bill amends the Workers Compensation Act to provide for a much more generous scheme for payment of medical and related expenses for injured workers to assist in their recovery and return to work.

Benefit changes for the injured workers with high needs, those with greater than 20 per cent whole person impairment, include payment of medical expenses for life.

All workers, regardless of their level of permanent impairment and whether or not they are in receipt of weekly payments, will receive reasonably necessary medical expenses for a minimum of two years from the date the claim was made.

For workers with a permanent impairment of 11 per cent or more this is extended to up to five years.

For workers in receipt of weekly payments, compensation will be available while those weekly payments are payable and for an additional two or five years (depending on their level of permanent impairment) after weekly payments are no longer payable to the worker.

Compensation for certain kinds of medical or related treatment, including artificial aids such as hearing aids and artificial members will not have a time limit.

The ability to claim for secondary surgery is also clarified in the bill. The term "secondary" surgery can refer to multiple subsequent surgeries. Secondary surgery is directly consequential to an earlier surgery and affects part of the body that was affected by the earlier surgery.

The surgery must be approved within two years of the earlier surgery or is approved following a dispute which arose within two years of the earlier surgery.

A replacement section 59A (4) will make clear the circumstances in which weekly payments are "payable" to a worker.

As a result of different arbitral interpretations placed upon the 2012 amendments to section 59A, there was some uncertainty about whether there could be a theoretical, rather than an actual, entitlement to weekly payments which would extend the duration of a worker's entitlement to compensation for medical and related expenses.

It was always the intention of the 2012 amendments that a worker's entitlement to compensation for medical and related expenses would be linked with the worker's actual, and not theoretical, entitlement to weekly payments.

The decision of the Workers Compensation Commission in *Flying Solo Properties trading as Artee Signs v Matthew Collet* [2014] NSWCC 202 gave effect to section 59A in accordance with the legislative intention.

The proposed section 59A (4) in this bill is intended to put the intended meaning beyond any doubt, by clarifying that for the purposes of section 59A, weekly payments of compensation are payable to a worker only while the worker actually satisfies the requirements to be entitled to weekly payments.

Schedule 4 to the bill provides for two new initiatives to help injured workers return to work, an important objective of the New South Wales Workers Compensation Scheme that benefits both employers and workers.

Return to work changes include assistance of up to \$1,000 for an injured worker returning to a new employer, as well as re-education and re-training assistance of up to \$8,000 for high-need workers who have received weekly payments for a year and a half and have a permanent impairment greater than 20 per cent.

These incentives are aimed at encouraging and supporting injured workers return to work, particularly if they are not able to return to their previous employment as a result of their significant injuries.

Schedule 5 to the bill provides for a more generous scheme for payment of indexed lump sum compensation for permanent impairment, similar to that used in Victoria. Injured workers with permanent impairment between 50 per cent and 75 per cent will be eligible for higher maximum lump sum amounts in recognition of the greater impact of their injury.

This will apply to injuries that occur from today.

Lastly, schedule 6 to the bill provides for savings and transitional arrangements.

Benefit changes to enhance equity such as payment of medical expenses, include extending the same benefits to those who have claimed from 1 October 2012 as those who claimed prior to this date.

Workers who were excluded from the operation of the Workers Compensation Legislation Amendment Act 2012 such as police officers, paramedics and firefighters, and some others will not be affected by the changes in the bill.

The Government is also delivering on its commitment to use one-third of annual surpluses in the Workers Compensation Scheme to reduce premiums for employers.

Businesses will benefit with approximately \$170 to \$200 million being returned to above average performing employers via a premium performance discount.

We are also making the insurance structures in New South Wales easier to understand.

The reforms contained in the cognate State Insurance and Care Governance Bill 2015 are an overhaul of the governance of State insurance and care schemes and the way in which those schemes are serviced in New South Wales.

We are proposing to establish three new organisations to operate and regulate the State's insurance schemes and regulate workplace safety.

The structural separation of these insurance functions addresses findings of the statutory review of workers compensation in New South Wales by the Legislative Council Standing Committee on Law and Justice Committee.

It responds to the calls of stakeholders in the system as well.

WorkCover has already recognised its conflicts of interest and has implemented an operational separation of its regulatory and insurance activities.

However, the Government has resolved to take stronger steps to address industry concerns and the recommendations of the recent reviews.

The structural separation to be implemented by this bill will give effect to that intention.

The new structure will be far more transparent and accountable and, most importantly, lead to better outcomes for injured workers. The new organisations will be more customer-centric, streamlined and efficient, building economies of scale and focusing on clear objectives.

The three new entities created by the bill are:

- Insurance and Care NSW, which will be a single provider of services for New South Wales insurance and care schemes,
- The State Insurance Regulatory Authority or SIRA, which will be a new, independent regulator of New South Wales Government insurance schemes, and
- SafeWork NSW, which will be an independent work, health and safety regulator.

The bill will create a clear statutory and operational separation between the functions of providing government insurance services and the regulation of those services.

I now turn to the detail of the bill.

Part 2 of the bill establishes the new consolidated service provider, Insurance and Care NSW, which will be an independent statutory corporation with a board and chief executive.

The board of Insurance and Care NSW will consist of up to nine directors, including the chief executive.

Pursuant to proposed section 11 of the bill, Insurance and Care NSW will have the primary function of providing services for the Workers Compensation Nominal Insurer, Lifetime Care and Support Authority and the NSW Self-Insurance Corporation. Insurance and Care NSW will also provide services to the new Dust Diseases Authority, which is to replace the existing Workers Compensation (Dust Diseases) Board and the Sporting Injuries Compensation Authority, which will take over administration of the Sporting Injuries Scheme.

Combined, these schemes represent insurance liabilities of more than \$26 billion, larger than any other general insurer in the country.

I want to assure the House that the services the Dust Diseases Board currently provides to workers with dust diseases and their families will not change under these new arrangements.

They will continue to receive the same high level of customer service and have relationships with the same staff.

The same dust diseases compensation fund will be available and the entitlements and services will continue to play an important role in supporting people with a work related dust disease.

This support will actually be enhanced under the new arrangements through Insurance and Care NSW.

Under the current system asbestos victims often have to wait up to one month to have their claim approved by the board members after the expert medical authority has already determined that they have a compensable dust disease.

For people with a malignant dust disease with an average lifespan of 12 to 18 months at reporting stage this wait time makes an enormous difference.

Under the new structural reforms, the expertise currently provided by the Dust Diseases Board members will be available to the Dust Diseases Authority through an expert advisory committee.

It will comprise a diverse range of organisations with expertise in dust diseases, including employer groups, employee groups, research groups and victim support bodies.

Some of these stakeholders will have a voice on this important table for the very first time.

The committee will advise on the delivery of services to workers and their families and how services can better meet their needs.

It will also provide strategic advice on the Dust Diseases Authority's research funding strategy, including advice on where research dollars can achieve the best outcomes for victims of dust diseases and community education activities relating to the risks from dust exposure.

Insurance and Care NSW will be a centre of excellence for long-term care needs, combining claim cohorts with similar care needs to focus on return to work and quality of life outcomes.

Insurance and Care NSW will deliver workers compensation that is less adversarial.

There will be fewer forms and less bureaucracy, and injured workers will have more say in their treatment and return-to-work pathway.

Given its role in servicing the Dust Diseases Scheme, the legislation will require that on its inception Insurance and Care NSW establish an expert committee on dust diseases.

This committee will ensure that Insurance and Care receives appropriate expert advice on the science, impacts and special considerations associated with dust diseases.

Part 3 of the bill establishes the new State Insurance Regulatory Authority or SIRA, which will also be a statutory corporation with a board and a chief executive.

The SIRA Board will have up to five members, including the chief executive.

SIRA will independently assume the regulatory functions of WorkCover in relation to workers compensation insurance and related activities, the Motor Accidents Authority in relation to Compulsory Third Party [CTP] insurance and of NSW Fair Trading in relation to home building insurance.

SIRA will focus on ensuring key public policy outcomes are being achieved in relation to service delivery to injured people, affordability, and the effective management and sustainability of the insurance schemes.

Consolidating regulatory responsibility for State insurance into one regulator will enable a consistent and robust approach to the monitoring and enforcement of insurance and compensation legislation in this State.

Finally, the role of WorkCover in enforcing work health and safety legislation will be transferred to a separate statutory regulator to be called SafeWork NSW.

The relevant provisions establishing SafeWork NSW are contained in schedule 13 to the bill by way of amendments to the Work Health and Safety Act 2011.

SafeWork NSW will focus on harm prevention and improving the safety culture in New South Wales workplaces.

SafeWork NSW will also include the establishment of a centre of excellence for work, health and safety in New South Wales.

The new structure will be more transparent and accountable and, most importantly, lead to better outcomes for injured workers.

There will be no job loss as a result of these improvements.

The head office of WorkCover in Gosford and other regional offices will not be relocated as part of these changes.

Staff moving to SafeWork NSW and SIRA will remain in the public service under the Government Sector Employment Act 2013 in the Department of Finance, Service and Innovation.

Their existing entitlements will be maintained.

Insurance and Care NSW staff will continue to be employed under a replicated award which mirrors the same entitlements that currently exist for public servants.

Insurance and Care NSW will report directly to me.

The Government has heard the recommendations of the recent parliamentary inquiries and statutory reviews into workers compensation loud and clear and acted.

It has heard the views of industry stakeholders who took the time to tell us about their experiences in the workers compensation system and acted.

This bill makes it easier for participants in the system.

The Government is committed to a workers compensation system that is fair, financially sound and focused on earlier recovery and return to work for those injured workers who have the capacity to do so.

A system that is Fair. Sustainable and Customer-centric will provide the best protection for workers, employers, the community and our economy.

I commend the bills to the House.

The Hon. ADAM SEARLE (Leader of the Opposition) [4.08 p.m.]: I lead for the Opposition on the Workers Compensation Amendment Bill 2015 and the cognate State Insurance and Care Governance Bill 2015. I request under Standing Order No. 139 (2) that the question on the second and third readings of these bills be put as separate motions—the reason for that will become apparent. The Opposition will support the Workers Compensation Amendment Bill 2015, although we do not think it is adequate and will be proposing some amendments to improve it. As some of my colleagues said in the debate on these bills in the other place—in particular, the member for Londonderry and the member for Blue Mountains—the introduction of this bill is like taking five steps backwards and one step forward. By that I mean that the 2012 amendments were a great leap backwards for injured workers. The Government is belatedly proposing some changes that improve the situation for some injured workers in this State, and the Opposition will do its best to encourage the Government in that direction by supporting this bill. However, we will propose some amendments that we believe will improve it. I urge members to give careful consideration to those amendments.

The cognate bill, the State Insurance and Care Governance Bill, is an effort by the Government to restructure not only WorkCover but also other compensation authorities, including the Motor Accidents Authority, the Sporting Injuries agency and, of course, the Dust Diseases Board into a number of different agencies with different boards. It may not be the way in which the Opposition would have embarked upon those reforms, but as we see it that is not the chief problem with this bill. The chief vice of the cognate bill is that those functions that are conducted independently of executive government, albeit through statutory bodies, will effectively have that independence removed and will be brought under more direct ministerial control in a way that we think is not appropriate, is dangerous and not good for governance of these issues. For those reasons, which I will develop in more detail shortly, the Labor Opposition will be opposing the State Insurance and Care Governance Bill 2015.

Should the cognate bill pass the second reading stage, the Opposition will be moving amendments to ameliorate what we see as the chief vice in that legislation and to retain the status quo of the Dust Diseases Board in this State. We will also be moving an amendment to that legislation to retain parliamentary oversight of compensation bodies and authorities in this State because the bill seeks to remove that parliamentary oversight. Members will be aware of the diligent and thorough work of the Standing Committee on Law and Justice in connection with the WorkCover Authority and, more recently, the Dust Diseases Board, the Motor Accidents Authority and the Lifetime Care and Support Authority. If members were to reflect honestly on the committee's oversight work they would see that it is valuable and should be retained.

It is now nearly three years since the 2012 changes. I will not repeat all of the contributions that were made in this and the other place in 2012, but the case for reform was predicated upon the claim of a \$4.1 billion deficit in the scheme. Members will recall that a joint parliamentary committee was established to look at these matters and an extensive debate was had. It is clear that the deterioration in scheme finances was not being driven by rapacious claims or unmeritorious claims from injured workers, but was chiefly being driven by lower investment returns as part of the backwash of the global financial crisis. In addition, PricewaterhouseCoopers, the scheme actuary, which the Government also relied upon in propounding its claims for reform, identified that key drivers of the scheme deterioration were the indifferent to poor performance of some scheme agents—that is, the insurance companies contracted to do the claims management for the WorkCover scheme—and, in particular, the inability of the insurance companies to get injured workers into appropriate rehabilitation and medical treatment in as timely a way as to maximise swift medical improvements.

These were clearly identified as the key reasons for the scheme deteriorating. Yet, in the legislation presented in 2012 there were no efforts to address those key matters and, while I am sure that Government members will beg to differ, no efforts have been made in that space since. What was unusual about the 2012 reforms was that, unlike any previous efforts to change, modify or reform the scheme, the entire burden of turning around the finances of the scheme was placed on the backs of injured workers. In the past when there were escalating scheme costs, or when scheme costs were exceeding premium revenue, previous Labor governments had taken the approach that all those who participated in the scheme should make a contribution to improving and making the scheme sustainable.

That meant that employers had to play their role, the service providers, lawyer, doctors and insurance companies had to play a role through taking less out of the scheme, and injured workers also made a contribution through having benefit modifications. But the approach of this Government has been to place the entire burden of scheme reform through cutting and removing benefits. It was also instructive—and again this was through the deliberations of the Standing Committee on Law and Justice which played an ongoing monitoring role—

Mr David Shoebridge: Which they want to get rid of.

The Hon. ADAM SEARLE: I have already made that point. PricewaterhouseCoopers provided regular updates and an enormous turnaround in scheme finances became clear. In fact, that turnaround became apparent after the Parliament had passed the reform package but predated the operation of the reform measures. More than half of the turnaround in scheme finances came from the collection of the relevant premiums that had been set and improved returns on investments. There was also the additional revenue provided through the massive reductions not only in the compensation payments—the lump sums, the weekly benefits—but, more particularly, the time limitation on medical benefits.

Mr David Shoebridge: And money.

The Hon. ADAM SEARLE: I mentioned the compensation payments. But it was clear—and this was predicted in this Chamber—that the reform measures being proposed by the Government were not only extreme in an ideological sense but also compared to the needs of the fund. We can see that now because the scheme is \$2.6 billion in surplus after possibly three, but certainly two, rounds of premium discounts for employers.

The Hon. Greg Pearce: Three.

The Hon. ADAM SEARLE: I acknowledge that interjection. All of that has been delivered by injured workers. One of the chief evils of the legislation was the definition of the seriously injured worker—a person assessed as having more than 30 per cent whole person impairment, a truly catastrophic level of impairment. Evidence given to the parliamentary committee was that this would only be 1.00 per cent of claimants. Of the 42,000 persons in 2012 who were part of the system, it was estimated only 120 would be 30 per cent whole person impaired, and there are some efforts to ameliorate that in this bill.

One of the centrepieces of the reform measures was the cruel, and perhaps misleading, work capacity testing. The chief function of the compensation scheme is not only to compensate injured workers but also to rehabilitate them and get them back to work. PricewaterhouseCoopers also found there was a real problem with ongoing employment—namely, one way or another injured workers were offloaded by their employer. As anyone who might have practised law in the field would know, every settlement of every workers compensation claim almost invariably required the employee to resign from their employment as the price for obtaining a settlement.

Mr David Shoebridge: And a debt of release.

The Hon. ADAM SEARLE: Yes, and a debt of release. Even where that did not happen, the protection of injured worker provisions—formerly in the industrial relations legislation and now essentially in the workers compensation legislation—only provided a limited protection of six months against dismissal from the time of injury. For people with an injury who do not return to work swiftly, their employment is effectively lost over time, one way or another. Again, this was identified by the actuaries and it was identified by the joint parliamentary inquiry. It was ventilated in detail in this Chamber when we had those debates. But neither at that time nor subsequently has this Government done anything to strengthen the obligations to return injured workers to the workplace.

This is largely driven by the definition of "suitable employment", which is at the heart of the work capacity testing regime. Of course, it sounds fair and reasonable that injured workers should be tested to see whether they are capable of returning to work, come up with a percentage and that percentage influences the level of compensation. However, when assessing those factors, the legislation states that this applies regardless of whether the work or employment is available, regardless of whether it is of a type or nature that is generally available in the employment market, and regardless of the nature of the worker's pre-injury employment and his or her place of residence.

One can imagine situations where fitters and turners, steelworkers or manual workers of other kinds are assessed as suitable for clerical duties, regardless of their experience in an office, their literacy levels or their knowledge of computing technology and the like. This is being used as a blunt instrument, as was predicted at the time by the Opposition and other members in this place, to simply cut people off and out of the system. And that is how it has worked. As I indicated, there were time limitations on the monetary benefits. The injured person made periodic trips of 2½ years or five years to see whether he or she would continue to receive

compensation, which had an impact on the length of time that person would receive medical benefits. There were the 10 per cent and 20 per cent whole-of-person thresholds and those who were at 30 per cent—the seriously injured—retained the benefits.

To give examples of the types of injury within those thresholds—and this is from the evidence that was given to the parliamentary inquiry—an ankle fusion would give a person less than 10 per cent whole-of-person impairment. Under the AMA5 guidelines, a worker losing both breasts in an accident might get to 10 per cent. A total foot amputation would bring someone in at 28 per cent. A 75 per cent hearing loss might get a person to 30 per cent, or it might not. Multiple spinal fusions would get someone 25 per cent whole-of-person impairment. A person who has had a four-level spinal fusion and had steel rods inserted would still not meet the 30 per cent whole-of-person impairment threshold. He or she would be over 20 per cent but would not get to 30 per cent.

Often people who need medical procedures need more than one procedure. Sometimes multiple procedures are needed because the first procedure does not work or because a person's condition deteriorates. Medical benefits under the original legislation continued for only a year longer than weekly payments. Many workers do not receive weekly payments and are able to return to full work and pay. They do not take weekly benefits but from time to time they need ongoing medical care and attention, surgery or other forms of treatment. There is a perverse incentive for people to take time off work to get the weekly payments in order to extend their medical benefits.

Those time limits created difficulty for people needing hearing aids, artificial limbs and the like. The original legislation deprived those injured workers who needed ongoing medical benefits and support of their dignity. A hallmark of the scheme had been ensuring that injured workers could access legal assistance and support in order to pursue their claims. I point out that the scheme only paid applicant lawyers where claims were successful. That provision in the scheme was removed. There was a further perverse provision that prevented lawyers being paid in advising workers, particularly around work capacity testing.

The WorkCover Independent Review Office [WIRO]—which I acknowledge as one of the good innovations of the 2012 legislation—identified in one of its early reports that the insurance companies were employing lawyers or skilled persons through the work capacity testing process but that injured workers, unless they could access a volunteer who had the skills and the ability to help shepherd them through the system, were effectively being lost. The legislation also took away journey claims, although I acknowledge that in this Chamber there was an effort to restore something that called itself a journey claim. Under the provision that now goes by the name of a "journey claim"—I am happy to be corrected—only one claim has been upheld since the 2012 reforms.

Mr David Shoebridge: And it is likely to have been covered under standard liability.

The Hon. ADAM SEARLE: It may well have been covered by that. That is the case of *Namoi Cotton Co-operative Ltd v Stephen Easterman (as administrator of the estate of Zara Lee Easterman)* in 2015. It was a decision of an arbitrator of the Workers Compensation Commission. On 22 May 2013 an employee who had been working as a cotton ginner for one month was killed on her way home. She had commenced her sixth straight night shift. She had worked 7.00 p.m. to 7.00 a.m. working six days on and then two days off. On the day in question, she was sent home from work at 9.30 due to a mechanical breakdown and on the way home there was a fatality.

The employer resisted the journey claim and sought to lead evidence that the employee did not appear to be fatigued. The arbitrator found that because the deceased's accident occurred after her sixth shift, having already worked 60 hours in the immediately preceding five days over five shifts, it was more probable than not that the deceased was tired. The circumstances pointed to it being more probable than not the deceased fell asleep, particularly in the context of having worked such long hours over the previous five days of 12 hours each shift.

The arbitrator awarded nearly half a million dollars to her estate. That was challenged before the President of the Workers Compensation Commission, who upheld the arbitrator's decision. That is the only case we know of and it could easily have gone the other way because the injured worker drove while fatigued. That case shows the sort of extreme measure needed to provide the necessary connection between the work and the injury, in this case death. That was an extreme case where a person worked such extended hours for so many days. It is unlikely outside of a fatality that workers would be able to establish a case.

The removal of the journey claim provisions that had been a feature of the legislation for many years was a notable step backwards. When the Labor Opposition raised the issue of the potential reinstatement of journey claims as part of the workers compensation scheme, the Minister in the other place said that it would mean an ongoing cost of \$285 million a year. It is interesting that in 2012 when we debated these changes journey claims then were estimated as being worth only \$93 million a year.

The Hon. Greg Pearce: That's those actuaries for you.

The Hon. ADAM SEARLE: I acknowledge that interjection, but I suspect the Minister's figure does not make allowance for the interaction with the motor accidents scheme, which enables recovery against drivers of vehicles at fault, and that the costs involved in reinstating journey claims would not be so great. I could go on at great length about the evils of the 2012 reforms. It is quite clear that they were extreme and unprecedented and they overreached in the sense that they did not just bring the scheme back into financial balance but left the scheme nearly \$3 billion in surplus, even after providing three rounds of premium discounts.

Since the 2012 changes there have been three separate reviews and reports. There is considerable overlap between those reports as to where there has been overreach and where sensible reform could redress the balance towards the rights of injured workers. As I acknowledged at the outset, this legislation takes some steps in that direction. In particular, there is some relaxation on the limitation on the payment of medical and related treatment, although there are still very significant limitations in terms of the workers who can access those payments.

For example, the limitation will no longer apply to compensation in respect of crutches, artificial aids, home or vehicle modifications or secondary surgery. That is to be welcomed. The limitation will no longer apply to an injured worker with a 21 per cent to 30 per cent permanent impairment. However, that means that still very few workers will receive the benefit of this improvement in medical support. The 12-month period in respect of which a worker remains eligible to claim compensation will be extended to two years for workers with a 10 per cent or less permanent impairment. That is a good provision but the limit of 10 per cent is still very high.

Mr David Shoebridge: It is good compared to where we were.

The Hon. ADAM SEARLE: It is good compared to where we were. The 12-month period in respect of which a worker remains eligible to claim compensation will be extended to five years for workers with an 11 per cent to 20 per cent permanent impairment. That is an improvement, but I refer to my earlier illustrations of the types and breadth of injury one must have in order to qualify for those thresholds. While it is good news for the extra cohort of injured workers who will be able to access those benefits, it highlights that when we take into account the number of workers who are injured in the workplace each year only a minority will be able to access those improvements.

There are improvements regarding the payment of weekly compensation, but again that is for a minority. There are improvements in the death benefit, which will increase from \$524,000 to \$750,000, and improvements in funeral allowances. There are other improvements, which I will come to in more detail but, again, they pertain to a minority of workers. This was an election issue. Each of the crossbench parties and the Labor Opposition campaigned on a platform of seeking to redress what happened in 2012. On 4 June 2015 the Christian Democratic Party entered an agreement with Unions NSW to improve the outcome for injured workers who had been disadvantaged by the scheme to date. They particularly had in mind the 5,000 seriously injured workers who had been cut off from weekly payments and the 20,000 workers with long-term injuries who lost access to medical treatment as a result of the cuts to workers compensation in the new thresholds.

The Assistant-President of this Chamber confirmed that he was unaware of a number of important facts when the 2012 changes were enacted and he believed it was in the best interests of the Government to right the wrong and improve the legislation. In particular, Reverend the Hon. Fred Nile said that he strongly supported the reinstatement of medical services for injured workers and that he was willing to look at the issue of retrospectivity and work around the 12-point plan of Unions NSW. There has been mention of a review of the current workers compensation arrangements, which the Labor Opposition would support. The bill before the House provides a package of changes. The package includes some improvements, but they do not go far enough. We should take them a step further. The Labor Opposition has circulated proposed amendments in which we seek to make further improvements.

I turn to the legislation in more detail. The legislation makes some positive changes to the plight of injured workers and their families. It will amend the limitation on payments and the provision of medical and related treatments in the way that I have outlined. A worker who receives an injury in the lead-up to retirement will be eligible for payments for 12 months after reaching the retirement age of 65. However, I reflect on the fact that the Federal Government wants to increase the retirement age to 70. For me and other members, the statutory retirement age is 67 or 68.

Mr David Shoebridge: It is work till you die now.

The Hon. ADAM SEARLE: Leaving that aside, the notion of retiring at age 65 no longer applies. That provision warrants further examination. In respect to other changes in the bill, a worker with an injury assessed at more than 20 per cent impairment will no longer be required to complete 15 hours of paid work to meet the standard for weekly compensation payments. The minimum weekly payment for a worker with more than 30 per cent impairment will now be \$788.32, indexed twice a year. That is still a very low amount. Regulations pertaining to the method of calculating a person's pre-injury weekly earnings will be changed and variations will be permissible.

It has been said that injured workers will be able to access paid legal advice. The provision in the bill essentially provides for a regulatory mechanism for the Government. I refer members to schedule 2, item [14], proposed new section 44BF, Legal costs. It does not make it clear that legal assistance will be available, although that no doubt is the stated intention. The Opposition believes that right should be properly entrenched in the legislation. A reviewable work capacity decision will operate to stay a decision if an application for review is made within 30 days. At the moment, when a person seeks to review a work capacity decision their compensation is immediately stopped. That is also an improvement.

Payments of up to \$1,000 will be paid to assist an injured worker to gain employment with a new employer. Payments of up to \$8,000 will be made available for the cost of educating or retraining an injured worker for a new career path. Lump sum compensation for permanent impairment will be indexed annually, and lump sum compensation for the death of a worker will be increased. These are all improvements but they do not go far enough. For example, I refer to the \$8,000 payment for retraining an injured worker. The changes to Smart and Skilled in relation to TAFE will sap the effectiveness of that measure to a great degree.

The Hon. Robert Brown: You can say that again; it will cut the value in half.

The Hon. ADAM SEARLE: I acknowledge that interjection. While it is a good measure, its intention is being lost because of the Government's actions in other areas. The Opposition would like to see time limits removed from medical expenses and treatment. If one can establish that medical treatment is needed, it should be a feature of workers compensation, irrespective of other benefits in the scheme. As I have indicated, we think that journey claims should be reinstated. We think the Workers Compensation Commission should have the power to determine the issue of legal costs.

The removal of the legal costs provision means that unless injured workers can access volunteers or people willing to act for them for free, they are alone in the system. Insurance companies will not make payments unless they have to, even if their view is wrong, and injured workers do not have the wherewithal or the skills to work through the process.

We would like to see some changes and rigour applied to work capacity decisions. We think that the issue of what is suitable employment needs to be properly redefined. As I indicated, one of the good things to come out of the 2012 changes was the WorkCover Independent Review Office. We think that body should have merit review powers in relation to work capacity testing. There are a number of other areas that I could talk about in terms of benefits but I will move briefly onto the second bill in the short time I have available.

The State Insurance and Care Governance Bill 2015 retools the regulatory bodies—WorkCover, the Motor Accidents Authority of New South Wales, the Dust Diseases Board and others—and brings them under the auspices of two larger regulatory bodies. These reforms are being embarked upon hastily. More care and attention needs to be given to the reforms by Government. I know that the Minister in the other place has indicated that some of the independence of these bodies already has been removed.

To use one example, I refer to the changes to the Dust Diseases Board. The legislation will change the name of the Dust Diseases Board to the Dust Diseases Authority. At the moment, all the decisions are made by a

seven-person board. There is an independent chair appointed by government, three employer representatives and three union representatives representing employees. There is no-one from the insurance industry. The Dust Diseases Board has operated for many years very successfully.

The Hon. Robert Brown: For 80 years.

The Hon. ADAM SEARLE: For 80 years. These matters were reviewed by the Standing Committee on Law and Justice. That inquiry was chaired by the Hon. David Clarke, a member of this Chamber. In the foreword to the report of 3 September 2014 the committee said:

The Dust Diseases Board has operated for over 85 years and provides a no-fault compensation scheme to individuals (and their dependants) that have developed a compensable dust disease following exposure to dust as a worker in New South Wales.

The overwhelming view of review participants is that the Dust Diseases Board and its compensation scheme are performing in an exemplary manner. It is a rare feat for a government agency to receive such uniform praise from stakeholders.

That independent board will be replaced by a chief executive officer. At the moment, everyone is focusing on the advisory committee. There will be an expert committee to advise Insurance and Care NSW, one of the new bodies created by this legislation. But Insurance and Care NSW does not make the day-to-day decisions about dust compensation, and the advisory committee will do so even less. In fact, the legislation does not even give any longevity to the advisory committee. It will operate only so long as the board of Insurance and Care NSW deems appropriate. We can park that to one side as mere misdirection and window dressing.

What is now decided by the Dust Diseases Board will be decided by the new chief executive. The chief executive will be appointed by the Minister. The chief executive will have no tenure and can be removed at any time for any reason or no reason. This means that there is one person making the decisions about the dispersal of compensation payments and other payments. At the moment, the board has a very wide discretion under its legislation. There is not just a schedule of payments, there are maximum amounts, but the board operates according to its own policies developed over many years.

Mr David Shoebridge: And almost every decision is by consensus.

The Hon. ADAM SEARLE: I acknowledge that interjection. Now all those decisions will be made by a single person under the direct control of the Minister of the day. Therefore, the functions will simply be an extension of Executive government. There will be no removal and no independence. At the moment, this board decides not only on payments for compensation but also on matters like whether to provide someone with an oxygen machine, whether they need a lawn-mowing service and whether certain home modifications need to be made. These decisions are all made at the board's discretion.

In answer to community outrage at these changes, the Government has taken the extraordinary step of suggesting that there will be no change to compensation levels or payments. I am sure that that is the intention of Mr Vivek Bhatia, but he will not necessarily be the person making the decision; it will be whoever the chief executive is from time to time of the Dust Diseases Authority. I believe that, over time, as a result of direct or indirect ministerial pressure, there will be downward pressure on the dispersal of resources to injured workers in this area.

Members should reflect that this agency, the Dust Diseases Board, has been given a clean bill of health recently by the Standing Committee on Law and Justice and it has never been the subject of any controversy or any adverse comment. It has operated on a tripartite basis without controversy over many decades. Yet, with no discussion and with no real rationale, this Government proposes to turn all of that on its head. More astoundingly, the limited parliamentary oversight now provided by the law and justice committee, which has fulfilled a very useful function, will be abolished. I did not see that in the Minister's second reading speech. I did not see it in his reply in the other place. I did not see it in any of the commentary. It was discovered this morning not by me but by somebody else with far sharper eyes.

Mr David Shoebridge: The Minister repeatedly referenced the work of that committee.

The Hon. ADAM SEARLE: I acknowledge that interjection. The point is that if we had a little bit more time we may find many other things in each of these bills that need improvement, removal or addressing in some way. I urge members not to rush this legislation through tonight. Let us take the time and the effort, because this is the moment; it has been three years since the previous reforms were undertaken.

The Hon. Shaoquett Moselmane: It should go to an inquiry.

The Hon. ADAM SEARLE: Whether or not it should go to an inquiry, if legislation is to pass this Chamber and this Parliament, all members should apply their minds diligently to make sure that, in line with the spirit of the Workers Compensation Amendment Bill 2015—which takes some agonisingly small steps towards improving the lot of injured workers—there is not a sting in the tail. We must be diligent in ensuring that where the independence of other bodies is neutered and brought under ministerial control, and although benefits remain in legislation, the tap effectively is not turned off.

The reforms that apply to the Dust Diseases Authority will apply—to a lesser degree in severity—to the sporting injuries body, the Motor Accidents Authority and WorkCover. All of these things will be reposed in the general managers or the chief executive officers who will be answerable only to the Minister. The boards that are created by this legislation are largely a misdirection and window dressing because the real action will happen through the agencies of these individuals, who will have no independence. They will simply be creatures of the Executive government of the day.

The government of the day sets policy and proposes legislation which the Parliament enacts. But the implementation should be at arm's length from government. I implore the members of this Chamber to provide proper scrutiny to these proposals, to take a further step to improve benefits for injured workers in the way that we will outline, and to make sure that in changing the regulatory mechanisms harm is not done to the interests of injured workers through poor administrative controls.

The Hon. GREG PEARCE [4.47 p.m.]: I speak to the Workers Compensation Amendment Bill 2015 and cognate bill, the State Insurance and Care Governance Bill 2015. Having played a role as the front person in driving these reforms in 2012, I say at the outset that it gives me great pleasure to support these changes and improvements to the scheme. These changes are possible because we took the hard decisions to reform the scheme and make it a sustainable scheme that was focused on fairness, return to work, and care for injured workers. We inherited a scheme that was financially unsustainable. It operated unfairly. It was not focused on return to work; it focused on disputes. A great deal of time and effort in the scheme focused on disputes rather than looking after injured workers and their families and getting them back to work.

The deficit that we were informed of at the time, and which was projected to continue to increase, meant that something had to be done, and it had to be done urgently. Premium increases of around 17 per cent were projected immediately for businesses. Members will recall that in 2012 this State was still slowly recovering from the effects of 16 years of Labor mismanagement and the global financial crisis. Business could not have coped with that sort of premium increase. There was an expectation that there would be further premium increases if the scheme was allowed to continue to spiral into a more unsustainable state. The scheme and its administration were incredibly complex. WorkCover had literally dozens, if not hundreds, of guidelines and other rules that were meant to guide people in the operation of the scheme. Indeed, I remember as Minister being astonished to ask WorkCover to give me a list of its guidelines, and WorkCover itself could not give me a complete list.

The Hon. Duncan Gay: Point of order: I am having trouble hearing the Hon. Greg Pearce because of the constant interjections from Mr David Shoebridge. He will have an opportunity to contribute to the debate. Surely he can respect the rights of other members.

DEPUTY-PRESIDENT (The Hon. Paul Green): Order! I remind members that it is disorderly to interject at all times. Mr David Shoebridge should show respect to the Hon. Greg Pearce. He will have an opportunity to contribute to the debate.

The Hon. GREG PEARCE: As I said, the scheme was not focused on caring for injured workers or return to work; it was focused on disputes and a great waste of time. Indeed, it operated very much as a lottery. One could not tell an injured worker what the outcome would be. The reforms were vigorously contested, and that was to be expected. Many stakeholders had a genuine interest in how the scheme worked, but there were also vested interests. It is the case that the scheme and the operation of this function will continue to be vigorously contested. Frankly, that is good because it means that we can focus on looking at ways to improve the scheme's operation. I simply hope we can do so in a more balanced and congenial manner than in the previous debate. The Government did not embark on these reforms from some ideological perspective. We did not come into government with a mad scheme to attack workers.

The Hon. Dr Peter Phelps: We opened the books and found it was a mess. That's the truth of the matter.

The Hon. GREG PEARCE: The books showed that not only was the scheme a mess; it was an absolutely unsustainable mess. The proposals we took forward, which were vigorously debated and tested as best as everyone could at the time, were based on what the actuaries told us were the major problems and areas for reform. So we worked through those. Many people put in a great deal of effort to try to ensure that the reforms we introduced were as fair as possible and reflected the objectives of making the scheme sustainable, allowing it to be part of a growing economy and, most importantly, focusing on injured workers and their families and getting them cared for or back to work.

As a result of the process we went through, considerable improvements were made to our original proposals. I thank particularly Reverend the Hon. Fred Nile, the Hon. Paul Green and the members of the Shooters and Fishers Party for their constructive efforts, which lead to improvements, including the establishment of the *WorkCover Independent Review Office* [WIRO], which was mentioned favourably by the Hon. Adam Searle as one important improvement to the scheme, and the Independent Legal Advisory Service, and various other changes that improved the outcome. I am not sure that the exclusion of police and ambulance officers from the operation of the new scheme was a great idea. As results come through—

Mr David Shoebridge: They all say this.

The Hon. GREG PEARCE: I know they say this. It will be interesting to see whether it is or is not as time goes by. The 2012 reforms resulted in a simpler, faster, fairer scheme and greater certainty. We improved some of the worst features of the previous scheme. I was astonished—it was a terrible feature—that under the previous scheme the most incapacitated workers were stuck on a thing called the statutory amount. They had been abandoned by their unions and legal representatives, and were left to rot on a very small amount of money. The fact that we were able immediately to increase the amount significantly was a pleasant part of the reforms.

The scheme's deficit has been abolished, which led to the three premium reductions referred to by the Hon. Adam Searle. That contributed to business growth in the State and improving our economy and the State budget. In the first year I think the State budget result turnaround was about \$400 million because of the saving in workers compensation premiums. The Hon. Adam Searle in his comments, which were a little contradictory, first sought to make the charge that the improvements were due to increasing the burden on injured workers. He suggested that the savings came about because of that.

The Hon. Adam Searle: It was not a suggestion; it was a statement.

The Hon. GREG PEARCE: In the next sentence he said that the scheme has improved because the returns to the scheme had improved. It cannot be both.

Mr David Shoebridge: Everybody knows it was both.

The Hon. GREG PEARCE: Is it one or the other, or is it both?

Mr David Shoebridge: It's both.

The Hon. GREG PEARCE: I agree that the scheme's finances and investment returns improved. That simply highlighted the inherent instability of the scheme relying on investment returns to pay compensation. We needed to have a sustainable scheme, and that is what we have now. Perhaps the most pleasing feature of everything we did was the improvement in return-to-work rates. Prior to the changes to the scheme, New South Wales lagged woefully behind the rest of the country in return-to-work outcomes. Immediately on introduction and implementation of the changes we jumped ahead of the pack; now New South Wales has the best return-to-work rates in Australia. We should all be proud of that. It was always the case that things would need to be reviewed, tweaked and improved as a result of the complex scheme and the significant changes that were made. I was pleased about the refinements that were made by regulation by my current successor, and I am pleased that we are now making further refinements.

The Hon. Adam Searle: It has all been downhill for you.

The Hon. GREG PEARCE: If I were still the Minister I would have initiated these changes. Indeed, I hope there will be further changes and refinements to the scheme as we see how it operates. The scheme will

be financially stable and more generous if this legislation gets through the House. We will have better processes and we will see structural changes, which I support. I was always concerned that the insurance and regulatory functions were mixed together; it makes sense to separate those two functions.

In relation to the Dust Diseases Board, I have to say in all my time here the board has been a very positive and properly functioning body. However, as with all things, that can change and different processes are adopted from time to time. We will have time for that to be adequately ventilated over the next couple of weeks, while this legislation is considered. I hope this legislation will be fully debated.

Mr David Shoebridge: I thought it was going to be forced through.

The Hon. GREG PEARCE: No, it will not be forced through. I hope everyone will have an opportunity to put their views on it in a reasoned way. I commend these bills to the House.

Mr DAVID SHOEBRIDGE [5.00 p.m.]: On behalf of The Greens I address the Workers Compensation Amendment Bill 2015 and the cognate State Insurance and Care Governance Bill 2015. I was glad to hear at the end of former Minister Pearce's contribution that the Government will not push through the Committee stage of these bills today. This was the first time I had heard this.

The Hon. Duncan Gay: He didn't say that. He said it would not be forced through.

Mr DAVID SHOEBRIDGE: Perhaps I misunderstood that.

The Hon. Duncan Gay: You deliberately misunderstand things.

Mr DAVID SHOEBRIDGE: It looks like the Government will seek to force these bills through the House.

The Hon. Duncan Gay: No, you can't force anything through this House.

Mr DAVID SHOEBRIDGE: If these bills are pushed through this House, having only been introduced into this House this morning, that would be another great tragedy. In 2012 reforms to workers compensation legislation were rushed through this Parliament. There was some notion of an inquiry that took seven days from its inception to the delivery of its report. Within a matter of hours of the report being tabled the legislation was being rushed through Parliament and there was a raft of unintended consequences, even beyond the swingeing cuts that the Government had initially planned. I think the complexity of the law, the depth of the cuts, the savaging of benefits went beyond even what the Minister thought would happen. Part of the reason that occurred was that there was not adequate time to properly scrutinise the impact of the legislation. It looks as though we will again have insufficient time to properly consider really complex and detailed pieces of legislation.

The 2012 reforms were an unmitigated disaster for injured workers. The current law is so brutal that a worker can have an entire foot amputated and still not be considered to be seriously injured under the scheme. In fact, if a worker has a lower limb amputated but still has a stump of three inches or longer, that worker is not defined as seriously injured and so faces the loss of weekly and medical benefits after five or six years. That is a disgrace that should never have found its way onto the statute books. There were elements of the 2012 reforms that no parliamentarian of good conscience could be comfortable with. A small number of those gross consequences will be remedied by the passage of these bills.

I give some credit to the current Minister. He has come into the portfolio, looked at the state of benefits being paid out and realised something needed to be done. He has been assisted in that task by the work of the upper House Standing Committee on Law and Justice, of which I am pleased to be a member. In my experience, that committee has a non-partisan, cooperative approach to undertaking its functions, whether those functions are looking at the laws of provocation or reviewing the workings of our statutory compensation schemes, such as the motor accidents scheme, the Lifetime Care and Support Scheme and the workers compensation scheme. This committee is an example of how the Parliament can and should work. In my experience, all members, regardless of which political party they come from, have performed their functions with care, diligence, genuine commitment and hard work, particularly those in relation to the oversight of workers compensation.

In its inquiry into workers compensation, the committee had the benefit of hearing from the actuaries for the WorkCover scheme. The committee found that the scheme at the end of last year would likely have a

\$2.4 to \$2.6 billion surplus and, all things being equal, was moving towards an approximately \$6 billion surplus by 2019. Former Minister Pearce was right to say there is no one explanation for that large surplus as there are two reasons for that large surplus. The first is that the extranormal losses occasioned for about four years after the global financial crisis, from 2008 to 2012, meant that returns on the \$10 billion, \$11 billion or \$12 billion invested in the scheme to pay benefits were well below any historic norm. These extranormally low returns meant there was less income generated to meet future claims and that was driving the scheme into a deficit. If we took a snapshot at the beginning of 2012, as actuaries do, and assumed the previous five years of returns would be repeated for the next five years, that snapshot would produce a headline for the Government suggesting the scheme was in a \$4.1 billion surplus. This was an extranormal position in the financial cycle.

At the time there was commentary about this although I accept it was not informed by any actuary's report. I recall referring to that commentary in debate in this House. The commentary was that it was likely that, given the timing of the snapshot, the actuarial assessments of the deficit were inflated and did not present a fair reading of the scheme. Indeed, we now know that by the time the reforms were pushed through the Parliament the deficit had been greatly reduced—I think from \$4.1 to \$2.6 billion. Whilst there is ongoing debate about the deficit based upon erroneous actuarial assumptions plus some actuaries' models when evidence was given to the upper House committee, it is likely that the scheme without changes would have found itself close to breaking even or reaching surplus by 2019 or 2020. When you add the return to normal returns and the swingeing cuts to benefits we now have a scheme that, absent more premium cuts and assuming normal returns on financial markets, is heading towards a surplus of around \$6 billion by 2019.

The \$1 billion package in this legislation comprises benefit returns that appear to be about \$600 million to \$700 million—although they have not been fully costed by the Minister—and premium cuts in the order of \$200 million to \$300 million. What has happened to the other \$5 billion going forward and the other \$1 billion, \$2 billion or \$3 billion that is available for the return of benefits? That has not been explained by the Minister. Clearly there is a substantially increased ability to return benefits than is being offered in these proposed amendments to the scheme. I turn to the individual benefits proposed to be returned under the Workers Compensation Amendment Bill 2015. The first object of the bill is:

- (a) the limitation on the payment of compensation for medical and related treatment and services (which currently applies to medical and related treatment and services provided more than 12 months after a worker's claim for compensation was made or weekly payments cease to be payable to the worker) ...

In this case, it is whichever is the later. The proposal is to make some changes to the hard and fast 12-month limitation, which was the first limitation on medical expenses and it was imposed in the 2012 reforms. From 1926 to 2012 if a worker in New South Wales was injured at work and that injury required reasonable and necessary medical treatment, that worker was entitled to have associated expenses paid under the compensation scheme. But in 2012 that changed so that most workers lost their medical benefits either 12 months after their injury or 12 months after their last weekly payment.

The savage limitations on weekly payments meant that thousands of workers were unable to get reasonable and necessary medical treatment under the scheme and were being thrown on to Medicare with its long waiting lists. They lost hearing aids and the ability to get prostheses, shoulder revision surgery and physiotherapy so that they could remain at work. They were the obvious consequences of the enactment of the 2012 legislation. It caused genuine and continuing suffering.

This bill provides that the limitation will no longer apply to compensation in respect of crutches, artificial aids, home or vehicle modifications, or secondary surgery. I give credit to the Government for making that amendment; it is good that that limit will not apply to those people. It is good that workers suffering hearing loss will be able to get hearing aids because they will be able to go to the club and understand conversations and will not feel socially isolated. A man to whom I spoke had a lower limb amputated after a terrible degloving injury that occurred when he was working on a maintenance line at a factory in Lithgow. It is good that he will be able to get a new artificial limb because he needs it to be able to work. It is a disgrace that that benefit was ever removed, and I give the Government credit for restoring it.

The limitation will no longer apply to an injured worker with 21 per cent to 30 per cent permanent impairment. Of course, that is only a tiny minority of workers. We know from statistics provided by the WorkCover Independent Review Office [WIRO] in the past few days that only about 3,000 workers are now assessed as having greater than 20 per cent impairment. About 80,000 workers make compensation claims each year, so only a tiny handful of workers will benefit. However, for those 3,000 workers this amendment is good news and I am glad they will have ongoing rights to medical support, assistance and treatment. They should

never have been under threat of losing their physiotherapy or the right to have further surgery to deal with their rotator cuff injury. They should never have been facing the prospect of not being able to get replacement prostheses; they should never have been in that situation.

I accept that the Minister is returning some benefits, and that is good. However, if a robber were to steal my television, DVD player, laptop and microwave and three years later returned the microwave, I would not be very grateful. That is the situation facing injured workers in this State. It would be good that the microwave had been returned, and it is good that these benefits have been restored, but there is not a huge well of gratitude because they should not have been taken in the first place.

The 12-month period in respect of which a worker remains eligible to claim the compensation available to all other workers will be extended for two years for workers with 10 per cent or less permanent impairment and for five years for workers with 11 per cent to 20 per cent impairment. The two years and five years apply from the date on which the worker makes the claim or the last date on which they get weekly payments, whichever is the latter. That is good; that right never should have been removed. However, thousands of workers will miss out. The amendments also clarify that the limitation period in respect of a worker to whom weekly payments of compensation have been payable commences when the worker's actual entitlement to weekly payments ceases. There are some complicated legal arguments about that and it is debatable whether it will be a good thing. I believe that, on balance, it is a bad move. Again, we have not had the time to consider the nuances.

The scheme for the payment of weekly compensation to injured workers will be changed slightly. A worker who suffers an injury before retirement age will remain eligible for weekly payments of compensation for 12 months after reaching retirement age. That is a good reform; in fact, it was an obvious problem in the 2012 legislation. If a worker was injured three months before reaching retirement age, they received only three months of weekly payments and only 12 months of medical expenses. However, if a worker was injured one day after they reached retirement age, they would receive 12 months of weekly payments. That provision was clearly inappropriate because it prejudiced one class of older worker, and it is good that it has been addressed.

An injured worker with more than 20 per cent permanent impairment will no longer be required to work for a minimum number of hours—currently 15 hours—and earn a minimum amount—currently \$176 a week—to be eligible to receive weekly payments of compensation after 2½ years during which weekly payments have been paid or are payable. That is good, but, again, it should never have been the law in the first place. I make it clear that whether the whole person impairment is 1 per cent, 10 per cent, 20 per cent or 50 per cent, while a worker is suffering from a work-related injury that is limiting their capacity to earn on the open labour market that worker should be entitled to compensation under this scheme. It should not depend on the whole person impairment.

Whole person impairment is a deeply flawed tool with which to assess incapacity. I will provide the House with an obvious example. If a lawyer suffers a physical injury, as a general rule they can keep working. There could be a 10 per cent whole person impairment provided it did not affect the lawyer's mouth. In that case, as a general rule, a lawyer would be able to continue working. A lawyer could also continue to work with a back injury. However, if a labourer were to suffer that same back injury, they would be out of the workforce and would have no capacity to work. An injury that affects one level of labourer's back, a bricklayer's back or a park ranger's back is likely to be assessed as less than 10 per cent whole person impairment. That worker who is required to do physical work is taken out of the workforce and under this scheme would lose compensation after 130 weeks or 2½ years. That is a disgrace. It gives no consideration to the impact of the injury on the worker. The classic example would be a concert pianist who suffers a finger injury. That would end the pianist's career entirely and they would probably get \$1,000 or \$2,000 in compensation under this scheme. That is totally unfair.

When I worked in private practice I acted for a prisoner who had been grossly injured. He received multiple puncture wounds when another inmate with a long history of psychosis convinced a casual prison officer to give him a pair of hairdressing scissors. My client was stabbed 20 or 30 times in the abdomen and suffered extensive damage to his digestive tract and bowel, which resulted in significant, ongoing incapacity. My client was assessed as having 3 per cent whole person impairment solely because of the scarring. There was no mechanism and there still is no mechanism to assess internal injuries under this scheme. Gross injustices like that happen when the scheme assesses compensation based on something as blunt as whole person impairment. It does not properly assess the impact on the worker.

The American Medical Association *Guides to the Evaluation of Permanent Impairment* states at the outset that they should never be used for the assessment of compensation for the reasons I have just outlined.

They are grossly unfair and they do not properly assess incapacity, pain, suffering and loss occasioned by injury. The other reforms that are being proposed in this legislation include that an injured worker who is unable to return to work with the worker's pre-injury employer will be eligible for compensation to a maximum amount of \$1,000 for the cost of certain services and assistance. That is a marginal increase and improvement. There is an increase in the lump sum compensation payable for the death of worker from \$524,000 to \$750,000.

That is a good increase; it will apply to a handful of workers and is relatively cheap. The Greens will be moving a series of amendments to restore weekly benefits and benefits payable in respect of medical and treatment costs for all injured workers. We urge members to closely consider especially the return of medical and treatment expenses. We know from the WorkCover actuaries that the scheme can afford to return every single lost medical benefit. The actuaries have priced the upper cost of returning all medical expenses at about \$282 million per annum at a maximum. The scheme can afford it. Whatever happens in the coming debate, this must only be an entree for injured workers, the first of a series of efforts to return benefits. Much of these changes are supportable. There is much more to be said in Committee.

The Hon. PETER PRIMROSE [5.20 p.m.]: The Leader of the Opposition in this place, the Hon. Adam Searle, and the very capable shadow Minister in the other place, Mr Clayton Barr, have ably put Labor's case in opposition to the Workers Compensation Amendment Bill 2015 and the cognate State Insurance and Care Governance Bill, but I wish to make a few points about both pieces of legislation. I speak firstly to the Workers Compensation Amendment Bill 2015. It is very easy to be angry about what this Government did to injured workers in 2012. When the Workers Compensation Legislation Amendment Bill 2012 was introduced to the other place the debate was jammed through in one day, which did not allow for a proper and considered debate to take place. The slight difference with this legislation is that it is now occurring in this place, the House of review.

The Workers Compensation Legislation Amendment Bill 2012, and the subsequent implementation of legislation, effected significant cuts to benefits for injured workers, some of which the Government is seeking to rectify through the bills now before the House. Those cuts created significant and unnecessary anxiety for many injured workers and their families across our State. Those of us who participated in the law and justice committee inquiry, as other members have mentioned, heard endless heart-wrenching examples of what that legislation did to ordinary citizens in New South Wales. I challenge anyone to be able to read those accounts, let alone to look those people in the eye and say that this is something that any government in the world would be proud of. We saw men and women in tears as they talked about having contemplated suicide on more than one occasion, and a number of others did commit suicide.

Whilst it is true that some of those significant cuts are being addressed in this bill, others are not. The Minister told the House that the Government is able to improve benefits or reinstate some of the cuts because it has fixed the scheme. That statement reflects very poorly on the Minister's understanding of how the scheme operates. The scheme found itself in difficulty a few years ago because of the global financial crisis. To a large extent the scheme relies on the performance of the stock market. When the stock market performs well it finds itself in surplus but when the stock market does not perform well, or the investments do not deliver the returns the actuaries say it should have, it finds itself in a projected deficit.

This is an insurance issue. When we are talking about a deficit we are not referring to a particular year or a reality that exists now; rather, we are referring to projections over at least 30 to 40 years. The actuaries to the scheme were using the returns on investments as they applied at that particular time and projecting forward 40 years. Guess what? Returns change, and their projections change from year to year. That is how deficits and surpluses come and go in this scheme; they ebb and flow from surplus to deficit. This is a long-tailed scheme so at any given time the margin for error on the actuarial assessment is plus or minus 50 per cent. Yet in 2012 the Government could not wait to show its true colours by ripping away benefits from injured workers from a scheme that had fallen, like every other scheme of its kind, to the effects of the global financial crisis.

This legislation today fails to address some of the harshest cuts to injured workers. Weekly benefits will still be reduced to 95 per cent of the rate of pay for an injured worker for the first 13 weeks and will reduce further to 80 per cent of the rate of pay for an injured worker from 13 to 26 weeks. The workers compensation bill does not address the significant issue that many workers confront—namely, an injury incurred going to or from work. Week after week in this place I hear members praise hardworking people, particularly nurses and those in our health system who work so hard to care for our communities, who often perform double shifts because of their commitment to patient care. Quite often those people drive home from work having done a 16-hour day but, despite their commitment to patient care and the health system, they are no longer covered by

this scheme. The scheme does not allow journey claims, and those journey claims in respect to health workers are not reinstated by this bill. That is a significant area in which this bill falls well short of addressing the inequitable system that was created in 2012.

I turn now to the State Insurance and Care Governance Bill 2015 and in particular the abolition of the Dust Diseases Board. If, as a former deputy chair of the law and justice committee which inquired into this, I had to pick any scheme, any organisation or any body in New South Wales and say which scheme do we need to change, which scheme is falling behind, the absolute last scheme, the last organ of government that I would select would be the Dust Diseases Board. That committee, which was made up of members from all groups in this House, looked at it rationally and coldly. We spoke with the board and took submissions. We did everything that is good about the committees in this House. The committee made two unanimous findings. The first finding was that:

The Workers Compensation (Dust Diseases) Board is executing its statutory functions and corporate governance responsibilities in an exemplary manner.

And that was not taken by anyone to be an exaggeration; it was simply a statement of the evidence we saw. The second finding was:

The Workers Compensation (Dust Diseases) compensation scheme meets the needs of workers with dust diseases and their dependents.

Some will not have had the opportunity to read through that report, given that this legislation is being rammed through all stages in this House today, but I urge all members, if they believe that our committee system is valuable, worthwhile and has any validity at all, to at least make themselves cognisant and aware of the outcomes of that inquiry during this debate. It was a very valuable inquiry; one that shows up the absolute dissonance in relation to this particular piece of legislation.

In the time left to me I will talk about the abolition of the Dust Diseases Board and some of the things the victims groups are concerned about. It is not only in relation to asbestos; we are talking about crystallite and a whole range of other dust diseases that are not going to disappear or go away shortly. They are going to be around for a long time as the various woes, particularly in relation to asbestos, continue to wash over our community. The Dust Diseases Board was doing an excellent job. The first concern is about ministerial discretion over claims. As only three benefits are capped by the legislation, this creates ministerial or chief executive officer discretion over all other compensation and activities that the board administers, including much-needed services to victims of dust diseases. All policies, processes and benefits will be open to being set by the Minister or a public servant under his or her influence. This will require no decision of Parliament or even the issuance of a regulation. These are the words of victims groups—this is one of their first concerns.

The second concern is about the fact that the board takes a role of a statutory decision-making body. All the policies of the board that enable fast payment and access to services are open to being cut by policy decree if the board is made an advisory council. If this occurs, it will remove the ability of victims to appeal decisions to decline access to benefits not defined in the legislation to the District Court, as there will be no jurisdiction. The statutory decision will have been made by the chief executive officer or Minister that that type of claim will not be paid.

The third concern is about total ministerial power. The new State Insurance and Care Governance Bill provides the public servant who administers the Dust Diseases Authority with no job security. This makes it unlikely that they will challenge the government of the day if the government requires the finances elsewhere or if it wishes for any benefits to be cut. The fourth concern relates to the status that decisions of the Dust Diseases Board will have. Currently the board has a quasi-tribunal status that can be appealed to the District Court if workers are dissatisfied with the decision. With the replacement of the board with a public servant, it is unclear what dispute processes are available to workers. The status of the new advisory council's decisions will be valueless until they are then signed off by the chief executive officer when they get around to it.

Victims groups are also concerned about the independence of the board. The board is currently made up of three employers and three workers representatives, with an independent WorkCover chair. The board determines cases, management and policy issues, and grants. By giving the board an advisory council status, the industry that contributes to the scheme and is affected by dust diseases will lose control of the scheme so that it simply becomes beholden to the decisions of a public servant or their Minister. Victims groups are also concerned about the foresight of the board.

The Dust Diseases Board has regularly contributed to medical research through its decision to provide grants which have the potential to not only improve the quality of life and survival of victims but also potentially cure many dust diseases. Victims groups are concerned about Minister Perrottet's statement that victims groups could now have a seat at the table. This is not opposed by the unions and has been discussed previously. Unfortunately, while this is an admirable idea, this approach has an unintended consequence. If the victims groups are brought onto the advisory council, the advisory council will be prohibited from funding activities of the victims groups that are on the board due to public sector code of conduct rules.

The Hon. Robert Brown: Conflict of interest.

The Hon. PETER PRIMROSE: Conflict of interest. Again, these are the concerns of victims groups. I am trying to echo their concerns here because there has been totally inadequate consultation with them. I look forward to the Minister responding in his reply to each of these concerns individually. The next concern relates to the speed of claims. Minister Perrottet stated that the instigation of a bureaucrat as the decision-maker will speed up decisions, yet when meeting with victims groups he said that the advisory council would approve the decision for the new public servant decision-maker. In effect, the Minister is adding another level of decision-making from parties with no industrial, medical or subject area knowledge or experience where the exposure is alleged to have occurred and with no independence.

The Dust Diseases Board already has the ability to speed-up decisions through the meeting of the board in between formal meetings via circular email motion that can occur in less than 48 hours. That is particularly relevant, given the nature of these diseases. The New South Wales Dust Diseases Board is the fastest whole claim dust disease process in any jurisdiction in the country. Unions and victims groups support making claims processes faster. However, it is unclear how this will occur, as the proposed process appears to be adding an extra step for the sign-off of a victim's claim.

The next concern of victims groups is the very financial viability of the benefits structure. Even during the lowest period of the global financial crisis, the Dust Diseases Board scheme only hit as low as an 89 per cent funding ratio. This enabled the board to weather the downturn without reducing benefits or increasing premiums. An independent board will ensure the current \$200 million surplus—an estimated 123 per cent funding ratio—which will enable certainty that victims will not be ripped from the scheme to pay for any other government shortfalls. On that last point, the law and justice committee looked very closely at the finances of this scheme and reported our findings. We concluded that the scheme was very well administered. Its finances were absolutely top-notch. At the time of our report it had about \$780 million in reserve, which was being funded. It has a very appropriate system.

The reason this board works so well is not only because of the 80-odd years that it has been in existence and doing the work but also because everyone on it is an expert. I have spoken to some of these people. Every time you have a conversation with them all they talk about are dust diseases. You can try to have a conversation about the weather and somehow a minute later you will be sitting there talking about issues around dust diseases. They live and breathe it; they know this stuff inside out. That is why it is so important to keep the board. They are dedicated, committed people and they know what they are doing. It is demonstrably the case that this is an incredibly valuable board and it should be retained. Taking away this board as a bureaucratic measure and demolishing this level of expertise and commitment is not only harsh and totally inconsistent; it is also, frankly, stupid.

The Hon. ROBERT BROWN [5.37 p.m.]: I speak to the Workers Compensation Amendment Bill 2015 and the cognate State Insurance and Care Governance Bill 2015. At the outset I make the position of the Shooters and Fishers Party clear: We will support the spirit of the bills. I have already circulated a set of amendments which would excise one part of the bill—and I understand the Opposition has done something similar—the part under schedule 10 that refers to the Dust Diseases Board. I will talk about that at the end of my contribution. The Shooters and Fishers Party and the Christian Democratic Party—not to verbal them—were part of the process in this Parliament that put through the amendments to the bill in 2012. In doing so we—Reverend the Hon. Fred Nile in particular—recognised that there were going to be some shortcomings because that process was what I would call a "crash through and burn" process.

Crossbenchers have limited resources to consider the detailed analyses of bills. We end up listening to advocates for and against certain aspects of legislation at the eleventh hour, which may be at 2.00 a.m. The Shooters and Fishers Party does not shy away from the fact that it was part of the voting block that put that legislation through, but we were comforted by the fact that Reverend the Hon. Fred Nile insisted that there be an

earlier review process instead of the statutory five-year review process, and that has taken place. The previous speaker, the Hon. Peter Primrose, ran through the determinations of the committee on law and justice which looked at the Dust Diseases Board, amongst others, as part of an ongoing review process.

We now have a bill that seeks to remedy some of the shortcomings done at a time when the Government claims—and we agree with what it says—that the financial security of the workers compensation scheme has been generally assured. I note the numbers laid on the table by the Leader of the Opposition to demonstrate the split-up of the reported \$4.2 billion deficit when the first bill amending legislation was passed in 2012. At the end of the day, irrespective of the problems created as a result of the global financial crisis, there was still a \$2.6 billion deficit that needed to be fixed. We now have an opportunity to take a step back and pass legislation that will improve compensation for injured workers.

I acknowledge the contribution of the Leader of the Opposition when he said that the improvements to the bill do not go far enough. Issues such as workers compensation and the police death and disability scheme that had to be rehashed are what I call a degustation. We are going to have to take a lot of little bites at the legislation because we are walking into uncharted waters. In some cases we have to suck it and see that the changes we make ensure the security and longevity of a scheme such as this. One aim of the Government's legislation in 2012 was to try to make workers insurance in New South Wales more affordable for employers, and that appears to have been the case with some reductions.

Then we have things that, in my view, have been tacked on. I have been here long enough to identify a tack-on to a bill. I put this position to the Minister today, who is obviously defending his legislation with a different view, but when legislation such as this is put through so neatly and cleanly and easily it demonstrates to me that it was not glued on properly. In other words, it was not part of the consideration. In fact, I cannot find a set of circumstances anywhere that would prescribe the Minister having to do away with the Dust Diseases Board, other than it is Government policy to do away with boards.

The Workers Compensation Amendment Bill 2015 and the cognate State Insurance and Care Governance Bill 2015 seek to enhance some benefits for injured workers. My view is that the scheme and provisions relating to workers compensation law in New South Wales remain the harshest for injured workers in Australia. Although we were given limited time to look at the legislation, there are more issues around workers compensation that must be addressed in order to restore balance and that may well take more than one bite to achieve. We must have balance.

I understand that injured workers do not necessarily want to hear that. If someone is in trouble, they must have things fixed immediately. However this is a House of review and we do what we can. We bite off chunks that we can swallow. It is all about the number of members on the benches in this House. I argued with my crossbench colleagues that we needed more time to consider a lot of the aspects of the bills. However, I am grateful for the input from the speakers tonight who added some detail to the improvements. I am not a lawyer and I am not a workers compensation expert, but I am a fast learner and I thank them for their contributions. Towards the end of my contribution I will touch on some of those issues that I do not believe have gone far enough.

Schedule 1 to the bill increases the amount paid to dependants of a deceased worker from \$425,000 to \$750,000. That is a significant increase but it is still not enough considering the change is designed to compensate family members for the loss of a loved one who is often the breadwinner. Family circumstances vary from one family to another and there should be a mechanism in place that evaluates each situation individually. Funeral expenses have increased from \$9,000 to \$15,000, which is also an improvement. I am not complaining about any of the improvements, but perhaps it could have been better considered. This increase is welcomed given that it reflects the current market costs associated with funerals and the shortage of land in which to bury people, if they wish to be buried. The Government will ensure that the market costs are closely monitored and reflected in legislation—we hope.

Schedule 2 to the bill introduces a minimum safety net weekly payment for the most seriously injured workers or, as the bill implies, workers with the highest needs. Under the proposed changes, the minimum amount of weekly compensation that a worker with more than 30 per cent impairment can receive will be \$788.32 per week, which is a combined total of compensation and earnings, to be indexed twice a year. The Shooters and Fishers Party concurs with the view of the Leader of the Opposition that this amount is probably short of the mark.

Whilst the proposal to offer weekly payments for a period of up to 12 months from a worker's retirement age is an improvement, it still flies in the face of the Federal Government urging workers to work for as long as they can. For example, a 66-year-old worker who has to work for another five to 10 years and suffers an injury will receive only 12 months of weekly compensation before being cut off despite their ongoing work-caused injuries. That proposal has the flavour of age discrimination. How many times do we see the word "burden" used by Federal and State governments, and departments, et cetera? It is an atrocious word when referring to aged persons. I am 65. I am not a burden and have never been a burden. I resent that attitude, but that is the sort of attitude that flows through Treasury benches. It is part of its DNA. Anybody who costs money is a burden.

The Hon. Lynda Voltz: Unless you have a helicopter.

The Hon. ROBERT BROWN: I will not go there. Schedule 3 to the bill amends the Workers Compensation Act to provide for increases and more application of payments for medical and related expenses. The intent is to assist injured workers in their recovery to enable their return to work, which is what everyone wants. The Shooters and Fishers Party welcomes the extended provisions for all injured workers. It is a step in the right direction but we call on the Government to consider provisions that would extend the changes to cover unforeseen and often lengthy recovery times for injured workers. Some injuries are quite complex and will continue to cause problems over a long period of time.

Schedule 4 to the bill provides for two new initiatives to assist injured workers to return to work by providing for up to \$1,000 to assist an injured worker return to work with a new employer, and up to \$8,000 to assist seriously injured workers with education and retraining in order to return to work—I would suggest that the Smart and Skilled reforms will chew that up very quickly for no benefit. Whilst the changes offer benefits and incentives for an injured worker to find work with another employer, they do nothing further to require the employer to assist the injured worker to find a position within the company. A one-off incentive payment does not compare to a regular wage, and whilst requirements exist for companies to find suitable work for injured employees, they are not strong enough.

Furthermore, we believe that these figures are nominal, given what the current market demands, particularly for young injured workers and particularly in Sydney where an income of \$788 a week does not go very far. These figures should be significantly increased, particularly for the most seriously injured. I have many examples but I refer members to those given by the Hon. Peter Primrose, which were pertinent. A cursory examination of this bill would suggest that the Government has been generous overall. We beg to differ. The moderately injured—those who do not cross the 10 per cent threshold—still receive nothing, notwithstanding that their injury may have a profound effect upon their lives.

The legislation provides for a significant increase in the maximum lump sum compensation for permanent impairment from \$220,000 to \$570,050, but in order to receive the \$570,050 the degree of permanent impairment must be greater than 74 per cent. Have members ever seen a person who has an impairment that is greater than 74 per cent? They are generally lying in a hospital bed with tubes stuck up their nose. I do not make light of their injuries when I say that. Examples of conditions that would result in 75 per cent whole-of-person impairment would include quadriplegia and severe head injury resulting in complete inability to care for oneself.

Schedule 6 of the bill provides for savings and transitional arrangements. The Government has assured us that the bill extends entitlements to specified medical and related treatments and weekly benefit enhancements to some workers whose entitlements ceased or changed after the 2012 reforms. The general principle is for the specified entitlements listed in the legislation to be open to all claimants, that is, injured workers who first made claims before 2012 and those who have made claims since 2012. The bill provides caps on medical treatment for all injured workers to be for a minimum of two years after the claim or after weekly payments cease, whichever is later.

The Shooters and Fishers Party is particularly concerned about the failure of the amendments to address the utilisation and engagement of independent medical examiners. We are concerned that many amendments are contingent upon regulations. This problem always arises in this House: the Minister of the day assures us that X, Y and Z will be done by way of regulation. It has been past practice in this House to try to force the Minister who has carriage of the bill to put those matters on record as part of the second reading speech. Sometimes that happens.

I now turn to the State Insurance and Care Governance Bill 2015, particularly in relation to the provisions relating to the Dust Diseases Board. On examination of this legislation, one can clearly see that it is a

click-on bill. It has been stuck on the side of the workers compensation bill as an afterthought. It was probably the idea of Treasury. As at 30 June this year, as previous speakers have said, the Dust Diseases Board has had 123 per cent of its estimated outgoings in hand. In other words, it has a surplus of about \$200 million. I should not use the word "surplus" but I guarantee that that is the word Treasury used in relation to the board. Treasury would say, "We could use that \$200 million and if there is a shortfall later we will kick the money back in." I do not trust Treasury.

Previous speakers to this debate have talked about the findings of the Standing Committee on Law and Justice inquiry, chaired by the Hon. David Clarke. The Hon. Peter Primrose, in his contribution, clearly stated the position. This Government can find no fault with the Dust Diseases Board nor with its performance, its investment strategy or its speedy handling of injured workers' claims. The Minister gave me a piece of paper which showed the differences between the current dust diseases claims process and the proposed process. The Dust Diseases Board has an agreed pass through rate of claims of 99.8 per cent. The Government argues that that is efficient but that the chief executive will be more efficient. Will the chief executive be 0.2 per cent more efficient, or is the Minister arguing that from a financial point of view 99.8 per cent is inefficient and the board should lower the percentage by knocking back more claims?

The Government has put forward spurious, foolish arguments that do not hold water. I have tried my best to ameliorate the effects of this legislation. I will have to apologise to the advocates who came to see me because I do not think we will be able to deliver for them. There is no valid reason for the Government to tack onto these cognate bills the changes proposed to the Dust Diseases Board. I will not go over issues that have been covered by previous speakers to this debate. I foreshadow that I will be moving amendments at the Committee stage and I will be seeking leave to move them in globo because they all have one goal, that is, to remove entirely all references to the Dust Diseases Board from the cognate bill.

I will not be arguing my proposed amendments ad seriatim; they are either in or out. We want the reference to the board out. The Shooters and Fishers Party would like more time to consider these provisions in the bill. If not, I will be watching very closely the consequences of the Government's new arrangement. In particular, I will be interested to see whether the \$200 million surplus stays with the authority or is trousered by the Treasury. I will look to see how quickly the claims are processed. The Minister made an outrageous claim that the Dust Diseases Board had not dealt with claims in a timely fashion because the board meets only once a month. The Minister did not meet with the board. Can you believe that?

The Hon. Adam Searle: I can believe it.

The Hon. ROBERT BROWN: The Minister did not meet with the board. I assume the Minister does not know that if the board of the Dust Diseases Board needs to make an urgent decision about an injured worker it corresponds by electronic circular and then ratifies its decision at the next board meeting. Its decision does not take one month, it takes 24 hours. That is no greater than the time proposed by the Minister for his new chief executive, who will rubberstamp decisions. I have never seen such an unnecessary piece of legislation. I do not accept the Government's assurances. I indicate again that I will be moving amendments at the Committee stage but I suspect that I do not have the numbers.

Mr SCOT MacDONALD (Parliamentary Secretary) [5.57 p.m.]: I support the cognate bills, the Workers Compensation Legislation Amendment Bill 2015 and the State Insurance and Care Governance Bill 2015. I would like to address some of the issues that have been raised by a number of speakers to the debate, particularly in reference to the inquiry of the Standing Committee on Law and Justice, which I sat on in the last Parliament. The committee spent a lot of time looking at the merits of the legislation, particularly around the veracity of the \$4.1 billion deficit—whether it was factual and whether it was a reason for making changes. The committee brought back the actuaries, contested their evidence and put questions on notice to them. It remains beyond a shadow of a doubt that the scheme in 2011-12 was in the position of a \$4.1 billion deficit.

As has been said, there were a multitude of reasons for that. There were a rising number of claims and more expensive claims. The lawyers were adding costs, increasing the amount of claims and not going to mediation. The after-effects of the global financial crisis also affected the scheme. It is fine to say, in hindsight, three or four years later, we over-reached but at that point we were looking at a \$4.1 billion deficit, and it was deteriorating. We were looking at a solvency ratio of about 90 per cent, and it was going south. It would have been absolutely negligent of the Parliament and the government of the day not to address that deteriorating situation. It is to the credit of the then finance Minister, the Hon. Greg Pearce, who introduced those difficult amendments and looked at the benefits at that time.

If we had not done that, there would have been a flight of jobs from New South Wales. From memory, the figure was projected to be about 13,000 jobs. New South Wales had some of the highest workers compensation premiums in the country, and we were on target to be the highest by a long stretch. The State would have been uncompetitive, and we would have seen poor outcomes for workers. Various speakers have referred to whole-person impairment, hearing aids, prosthetics and other serious issues. However, they did not refer to our uncompetitive position and the loss of employment we faced if the system was not addressed. As I said, it is to the credit of Premier Barry O'Farrell, the Treasurer, the finance Minister at the time, the Hon. Greg Pearce, subsequently the Hon. Andrew Constance and now the Hon. Dominic Perrottet who have addressed the scheme.

The previous Labor Government buried its head in the sand and hoped that the scheme would magically fix itself. We did not take that approach. We recognised the problem and undertook the challenging task of reforming the scheme through the Parliament, and I believe we have delivered. In 2012 we said that the scheme would be reviewed by the law and justice committee. As a member of that committee I heard the evidence about some of the difficulties injured workers faced, and we made our recommendations. As the scheme recovered—it was able to recover only because we addressed such things as journey claims—it became more solvent. We addressed some of the changes through regulation and now through legislation.

I cannot accept the arguments of Mr David Shoebridge and others that everything would be okay and that the actuaries acknowledged that the scheme would turn around. No-one was in a position to make that call at that time. The scheme is now in a much stronger position. As I said, the Minister is targeting liquidity and solvency of about 110 per cent. When it reaches that level, benefits for workers improve and employers pay lower premiums. We have the target and the legislation, which strikes a good balance. Many of the difficult issues such as hearing aids, prosthetics, vehicle modifications, increased funeral expenses and so on are being addressed, but that can only be done when the scheme is in a financially sustainable position. Under the previous Government the workers compensation scheme was not in that position. Only this Government has delivered on that.

I will conclude my remarks by referring to the Dust Diseases Board, which seems to be the Opposition's whipping boy. I listened to the evidence before the law and justice committee. No doubt the Dust Diseases Board was doing a good job, and I added my name to that report. This new legislation makes it clear that people approaching the new format of Insurance and Care NSW will receive the same level of service on dust diseases issues. They will continue to receive a quick response. The Minister has given an undertaking that the fact that there will no longer be a separate Dust Diseases Board will not impact on benefits and services. Indeed, people may receive better benefits.

The Dust Diseases Board is a unique body and it cannot be compared to other workers compensation schemes. Dust diseases claims are relatively short term; there is no long tail. People come to the Dust Diseases Board relatively late in their disease, and they have only a short window in which to be assessed and then receive a decision on benefits. That will continue under Insurance and Care NSW, as it must. Obviously members are looking to their constituencies and beating up the issue. That is unfortunate. Again, they are ratcheting up fear where there is no basis for that fear. Those who talked about the Dust Diseases Board as if there will be a retreat from services or benefits do themselves a disservice. I commend the bill to the House.

The Hon. LYNDIA VOLTZ [6.04 p.m.]: I am surprised by some of the issues raised by Mr Scot MacDonald—or perhaps I should not be surprised. I will address most of them in my contribution because this is one of the Government's great Houdini acts. In 2012 the Government introduced a bill that took about five steps backwards; now it is taking a couple of steps forward and it expects us all to be cock-a-hoop about it. The reality is that the Government used a heavy-handed approach when dealing with this legislation in the past. Thousands of workers who were previously eligible for assistance under the workers compensation system in order to look after themselves and their families following a catastrophic workplace injury were hung out to dry overnight by the Government.

In 2012 the Government amended the legislation and removed workers compensation coverage for trips to and from work, reduced weekly payments to injured workers, stopped weekly payments for most injured workers after 2½ years, capped medical payments for injured workers, and stopped lump sum payments for pain and suffering. It lumped workers with legal costs for pursuing a claim and removed the right of workers to have representation. It is farcical for Mr Scot MacDonald to talk about increased benefits to workers when the reality is that most workers were thrown out of the system. It is a typical divide-and-rule strategy that is used by Coalition members when it comes to workers. They give a few workers a handful of benefits and make out they have looked after everybody, when the reality is that everyone has been well and truly shafted.

At the time the Government reformed the scheme it made the changes on the basis that the scheme was in difficulty as a result of the global financial crisis. Given that the scheme relied, to a large extent, on the performance of the stock market, it is hardly surprising that if the actuarial projections are based on the global financial crisis they will project a deficit. At that time most global economies found themselves in a recession. But as any basic economist will say—it is covered in economics 101—when the stock market starts performing well and the actuaries do their projections the scheme will find itself in surplus. When the stock market does not perform well, the investments do not deliver returns and at that point the actuaries will say that the scheme will find itself in deficit.

As soon as the global markets turn around one expects the scheme to go back into surplus and—voila—like a magician's sleight of hand, the inevitable occurs. That is exactly what has happened here. This legislation is an admission by the Government that its own legislation failed. As the Hon. Robert Brown said, it was crash-through legislation. The Government has been forced back into the Chamber, at least to fix some of the harsher elements of the legislation. Interestingly, the Hon. Greg Pearce said that workers were stuck on statutory amounts under the previous scheme. He pretty much fixed that by chucking most workers off the scheme. A Macquarie University study found that 5,000 permanently injured workers had lost their weekly payments, while 20,000 workers with long-term injuries had lost coverage for medical treatment as a direct result of the Government's 2012 overhaul of the WorkCover scheme.

People such as Paul Drayton, whom the former Minister said he would look after, are still out of work and their weekly payments have been cut off. If that is the former Minister's idea of looking after people, I suggest he will do well hanging around with his mates Joe Hockey and Bronwyn Bishop and all the other leaners. The bill still fails to address some of the harshest cuts to injured workers, such as weekly benefits. Weekly benefits will stand to be reduced to 95 per cent of the rate of pay for an injured worker for the first 13 weeks and reduced further to 80 per cent of injured workers' wages for 13 to 26 weeks.

What is more, the bill does not address one of the most significant changes in the legislation, that is, journey claims. At the time of the last piece of legislation, the former Minister claimed that the removal of journey claims put New South Wales in line with Victoria. What he did not tell the House at that time was that the Victorian transport accident compensation scheme does not consider who was at fault when determining whether a person is eligible for transport accident compensation. The changes did not in any way come close to replicating the Victorian scheme. If a nurse in New South Wales is driving home in the early hours of the morning after pulling a double shift and has an accident and is found to be at fault, he or she will not be covered by workers compensation legislation nor motor vehicle insurance cover. Under the changes brought in by this Liberal Government those workers receive nothing.

I now address the issue of the Dust Diseases Board. The board is not a whipping horse; it is a very important part of the system. The board has been operating for more than 85 years. It has exclusive jurisdiction to examine, hear and determine all matters and questions arising out of a claim for compensation under the Workers Compensation (Dust Diseases) Act 1942. The scheme provides compensation for workers and their dependants with a compensable dust disease primarily triggered by occupational exposure to dust during employment in New South Wales.

The Standing Committee on Law and Justice found that the overwhelming view of reviewed participants was that the Dust Diseases Board and its compensation scheme were performing in an exemplary manner. Any member who has spoken to community members will have heard exactly the same thing. The committee acknowledged that it is a rare feat for a government agency to receive such uniform praise from stakeholders and commended the board for performing its functions to such a high standard. In fact, the committee's only recommendation to improve the scheme was that the Government investigate the feasibility of introducing professional liability for malignant claims to the scheme.

The Dust Diseases Board has contributed regularly to medical research through its decisions to provide grants that have the potential not only to improve the quality of life and survival of victims but also to potentially cure many of these challenging dust diseases. The Minister for Finance, Services and Property stated that the instigation of a bureaucrat as the decision-maker will speed up decisions. Yet when meeting with victims groups he said that the advisory council would approve the decision of the new public servant decision-maker. The Minister is not speeding up the process; he is adding another level of decision-making by parties with no industrial or medical knowledge, no experience about dust exposure and, crucially, no independence. The Government's argument that the 30-day period between meetings of the boards is too long is a load of nonsense, given the extra bureaucratic layer and the additional waiting period for approval by the advisory council.

Another problem with these legislative changes is that the State Insurance and Governance Care Bill does not provide job security for public servants who currently administer the Dust Diseases Board. This Government made drastic changes to the workers compensation scheme under the cover of the global financial crisis. This legislation is a typical example of the Government's thinking. When it comes to workers' rights, if it ain't broke the Government will make sure it will be.

Reverend the Hon. FRED NILE [6.13 p.m.]: On behalf of the Christian Democratic Party I speak to the second reading debate on the Workers Compensation Amendment Bill 2015 and the State Insurance and Care Governance Bill 2015, perhaps the most important legislation that has come before the House since the last State election. I am very pleased to support this legislation because of the increases in benefits for injured workers in New South Wales. Other speakers to this debate have referred to the dramatic cuts that occurred in 2012 when the workers compensation scheme faced a \$3 billion deficit. Urgent action had to be taken and there were some serious cuts to workers' benefits. As a result of that action, the fund's finances have completely turned around and now there is a surplus of probably \$3 billion.

From my discussions with the Minister, I believe the Government will use \$2 billion of that surplus to compensate injured workers and \$1 billion to lower premiums, which will assist employers to increase the workforce by providing more jobs. These are practical benefits. These bills will introduce a number of workers compensation benefits and reform the current structure of the New South Wales Government insurance schemes to enable more efficient management and significant savings. The benefits package implements an election commitment by the Government to return any surplus above the minimum required to keep the scheme sustainable for injured workers and business.

To complement the benefits, \$170 million to \$200 million of premium discounts of up to 20 per cent will be returned to reward businesses that have a good safety track record. In other words, if businesses can show they have a good safety track record, they will receive significant premium discounts. I am sure that will be very attractive to business. Businesses normally try to reduce accidents because they care for their employees and I believe this is a valuable incentive for companies to make workplace safety an even higher priority. The structural reform of the Government's insurance schemes responds to recommendations that were made in a number of recent reviews. This is the reason the Christian Democratic Party believes it is important to support these bills.

The bills could be delayed for a week or a year or they could sit on the table but that would mean that these increased benefits would not be available to injured workers. The Christian Democrats believe the priority is to make adjustments to past cuts and to return to a fairer scheme for injured workers. This legislation will extend the benefits that the Government has announced. These include access to medical treatment for life for seriously injured workers with more than 20 per cent permanent impairment and access to hearing aids, prosthetics and home and vehicle modifications for life. They also will extend access to medical treatment from one year to two years for workers with permanent impairment from zero to 10 per cent and five years for those with 11 to 20 per cent.

A minimum weekly payment of \$788 will be made to the most seriously injured workers and there will be increased permanent impairment lump sum compensation, with the maximum increased from \$220,000 to \$570,050. I commend the Government for more than doubling benefits to those who are permanently impaired. The legislation also provides more flexibility for seriously injured workers to transition back to work by removing the 15-hour minimum working requirement and up to \$1,000 in assistance for a worker returning to work with a new employer. There is also up to \$8,000 for education and retraining assistance to seriously injured workers to enable them to return to work.

The legislation also increases death benefits from \$524,000 to \$750,000—another very large increase—and has increased funeral expenses to \$15,000. Finally, it covers payment of legal costs for advice on review of work capacity decisions, subject to regulation. I have compared the maximum benefit for lump sum compensation to the permanently impaired in this legislation to the lump sum compensation that applies in other States. New South Wales has increased this compensation from \$220,000 to \$570,000. In Queensland it is \$314,920, in South Australia \$481,755, and in Tasmania \$333,274. In Western Australia it is only \$281,970. ComCare provides only \$179,975—shame on the Federal Government for this very low figure—and in the Australian Capital Territory it is \$209,761. It is obvious that New South Wales has stepped up to the mark by making the compensation \$570,000, which is equivalent to the compensation offered in Victoria. That is a 162 per cent increase.

I am pleased that the legislation provides some other benefits. Injured workers in New South Wales with a permanent impairment of between 51 per cent and 79 per cent will benefit from a higher lump sum payment than that provided to their Victorian counterparts. That makes the New South Wales scheme the most generous in Australia for those with the most serious injuries. Lump sum payments for permanent impairment of between 51 per cent and 79 per cent are staggered in incremental brackets. This means that small differences in assessments between workers and insurers will not result in disputes because the amount payable to the worker will not change unless the worker is assessed in a different bracket. I commend the Government for making that change. I particularly commend the new Minister, who I believe has done a lot of work and has been enthusiastic about getting this legislation right.

Legislation is always open to criticism and amendment, and I have taken up some practical criticisms with the Minister. I will move amendments in committee to restore the role of the Standing Committee on Law and Justice in monitoring the legislation. The omission of that role might have been an oversight, and my proposed amendment will restore it. I will also move an amendment to provide for General Purpose Standing Committee No. 1 to review the legislation in two years. I have endeavoured to negotiate with the Government with regard to the Workers Compensation Dust Diseases Board, and I will move amendments designed to restore the board concept to the legislation. It is a matter of getting the wording correct so that it achieves its purpose.

I met board representatives who indicated how the board has operated in the past and I have heard no criticism of its operations. It has a 98 per cent claims approval rate, but it has been suggested that the approval process is too slow. A process has been introduced to allow three members to approve claims between monthly board meetings, at which the approvals are ratified. I do not believe that criticism of the board was justified. Hopefully, my proposed amendments will restore balance to the legislation by having the same board membership incorporated in the legislation, including representation of injured workers. They are some of the positives that will be achieved by the passage of this legislation. I believe the amendments will provide the finishing touches and make it more effective.

As I have indicated, I believe that the Standing Committee on Law and Justice should monitor the impact of the legislation, and amendments can be made to refine it where necessary. I am the chairman of the General Purpose Standing Committee No. 1 and I have demonstrated my complete independence from the Government while ensuring justice for injured workers. I am happy to assure the House that if I retain the chairmanship of that committee I will remain independent. However, someone else may be the chair in two years. I commend the bill to the House.

The Hon. SOPHIE COTSIS [6.24 p.m.]: I speak on the Workers Compensation Amendment Bill 2015 and the State Insurance and Care Governance Bill 2015. I acknowledge the thousands of workers, community members and, of course, members of the union movement who have been advocating, agitating and working extremely hard over the past three years to get the Government to see reason. I acknowledge Mark Lennon, the Secretary of Unions NSW, Peter Remfry from the Police Association, and Kim Garling from the WorkCover Independent Review Office, who are in the gallery.

I acknowledge my colleague in the other place, the member for Cessnock, Clayton Barr, who like many other members has spoken passionately about this legislation. I also acknowledge the Leader of the Opposition in this place, the Hon. Adam Searle, who has done a fantastic job on this important area of public policy. Unfortunately, this legislation represents only a small step forward in undoing some of the heartless and unnecessary amendments to the workers compensation scheme made by this Government in 2012. However, as is often the case with this Government, a small step forward on one front is offset by a massive leap backwards.

While the Labor Party supports the Workers Compensation Amendment Bill 2015, even though it does not go far enough, it does not support the State Insurance and Care Governance Bill 2015, which represents a massive step in the wrong direction. The Opposition's particular concern about the State Insurance and Care Governance Bill is that it proposes to abolish the Workers Compensation Dust Diseases Board. For more than 80 years this body has fairly and impartially supported injured workers and their families, and particularly those affected by exposure to asbestos. The fact that the Government does not understand the value of the board shows just how out of touch it is with the reality of working life. We are in this situation because Liberal and Nationals members do not understand the dangers that so many people face at work.

In 2012 the Government introduced sweeping changes to workers compensation arrangements in New South Wales. Those changes were rushed through Parliament just as these changes are being rushed

through now. At that time I spoke in this place on the Workers Compensation Legislation Amendment Bill and the Safety, Return to Work and Support Board Bill. Those bills made the amendments that the bills we are debating today seek partly to undo. It is worth revisiting the 2012 debate on those bills because it links directly to the legislation we are considering today. I stated:

These bills undermine the Australian value of a fair go. These bills cut the entitlements and protections that New South Wales workers rely on if they are killed or injured because of their job. These bills undermine the basic protections that three million New South Wales workers rely on every day.

While I and my Labor colleagues strongly objected to the changes introduced in 2012 on the ground that they would unfairly impact on workers, many Government members spoke enthusiastically in support of the reforms. The then Minister for Finance and Services, the Hon. Greg Pearce, described the reforms as measured, fair and reasonable. The Hon. Matthew Mason-Cox said that the bills had at their heart, and always would, the safe return to work and support of employees. Government members chose to ignore the repeated warnings of Labor members, the unions and academics, and the research provided to them, and here we are three years later fixing that legislation. Over the past three years I have travelled thousands of kilometres around this great State to talk to injured workers. I have spoken to people who have not been entitled to make journey claims. Some have had to ask for loans from family and friends but have still lost their homes, and marriages have broken down because the Government ignored the evidence.

The Government ignored the facts and this is why we are here today. It is unfortunate. I have listened to the interjections from the members opposite and members from the lower House. It is sheer ignorance. It demonstrates that they have not met injured workers; they have not sat down with injured workers and listened to and understood what has happened to them between three years ago and today. The Government chose to ignore the repeated warnings of Labor members that its changes would unfairly impact on injured workers by denying compensation to people who had previously been able to receive compensation if they were injured in the course of their duties. Despite the Government's assurances that everything would be fine, the changes were enormously unfair to injured workers. This is demonstrated in a report produced last December by respected Macquarie University academics, Professor Ray Markey, Dr Sasha Holley, Dr Louise Thornthwaite and Dr Sharron O'Neill. In their report the esteemed academics wrote:

The legislative changes to workers' compensation introduced in June 2012 have significantly reduced entitlements for injured workers in NSW. Since the changes were made there has been a 24% reduction in active compensation claims. More than 5,000 workers have had their income entitlements terminated following the issuing of a work capacity decision notice. At least 20,000 long-term injured workers have lost their entitlement to medical benefits.

That is 20,000 people. This is what this Government has caused. It is a disgrace. Academics have written this report. This is their evidence. The report goes on to state:

Between July 2012 and November 2014 four separate reviews of the NSW workers' compensation were completed by, or on behalf of parliament or the government:

...

Each of these reviews highlight ways in which the scheme lacks fairness for injured workers ...

This is what we are about. We are about the fair go. It does not matter what political party we are from, we are about the fair go. That is what Australia is about. Unfortunately, under this Government's cruel changes this is devastating to those 20,000 people. Each of these reviews highlights ways in which the scheme lacks fairness for injured workers and offers recommendations for improving the operation of the scheme and restoring fairness. The verdict is in. The Government's changes in 2012 were unfair and unjust. The Workers Compensation Amendment Bill 2015 is an admission by the Government that it went too far three years ago. Of course this bill does not go far enough to reverse those changes.

The cognate State Insurance and Care Governance Bill 2015 takes a new step in the wrong direction, particularly with respect to asbestos sufferers. This is not the first time that the Government has undermined protections for asbestos sufferers. In October 2011 I asked the Government how its policies would affect sufferers of asbestos-related diseases. I was told by the Minister for Finance and Services:

We will do everything we can to ensure that those who suffer from such terrible diseases have every bit of support that they can possibly get.

I have met with victims of asbestos-related diseases who are outraged by what the Government is now proposing. How can the Government claim that it is doing everything it can to support victims of these injuries

when it is not listening to what the victims want? I acknowledge Barry Robson, President of the Asbestos Diseases Foundation of Australia, and commend him for his tireless work. I met with a number of widows whose husbands had died because of asbestos-related diseases. My heart goes out to those people who are dying because of asbestos-related diseases. The Workers Compensation Dust Diseases Board has done a magnificent job over the last 80 years. There is no reason why the Government is making this change. I refer to a report from the Australian Broadcasting Corporation [ABC] Newcastle on 5 August 2015 about Metford resident Rhonda Pilgrim. The report states:

Metford resident Rhonda Pilgrim began her relationship with the board in April 2014 when her husband Ian was diagnosed with mesothelioma. She says the service was invaluable and made Ian's terminal condition more bearable.

Once you're diagnosed and granted remuneration for all of your care, it is just straight forward; and [with] any help you needed, all you had to do was phone them.

Pilgrim told 1233's Paul Turton.

From paying for general upkeep of the family home to Ian's funeral when he died in February this year, Rhonda says the Dust Diseases Board helped out however they could.

This is what the Government wants to get rid of with this bill. I refer to a report in the *Sydney Morning Herald* on 5 August 2015 relaying the story of Helen Davis. It said:

Helen Davis lost her husband to asbestos disease 11 years ago, decades after he made repairs to their fibro home at Beverly Hills. During an otherwise dark and difficult period during his illness, Mrs Davis and her three daughters were comforted by the caring attention of the Dust Diseases Board.

Again, this is what the Government is seeking to abolish. It is reprehensible and heartless.

The Hon. Dr Peter Phelps: And replace it with something else.

The Hon. SOPHIE COTSIS: No, it is not the same thing. Victims of asbestos exposure deserve support. The State Insurance and Care Governance Bill diminishes that support. It is the latest evidence that this Government does not understand the hardships that ordinary working people face. The Government should change this; it should stop this and delay what it is doing tonight. This is a huge shame for people who are suffering with dust diseases.

The Hon. COURTNEY HOUSSOS [6.36 p.m.]: I speak to the Workers Compensation Amendment Bill 2015 and the State Insurance and Care Governance Bill 2015. It surprises few of us on this side of the Chamber that the Government finds itself back here, forced to reverse some—unfortunately, not all—of its shockingly ill-conceived workers compensation changes from 2012. And just in case the Government has not portrayed enough of a heartless demeanour to the people of New South Wales, it has decided to tack on the end of these reversals a bill that abolishes the Workers Compensation Dust Diseases Board. We really could not make this stuff up.

I shall focus on the Workers Compensation Amendment Bill. Up until 2012 working men and women in New South Wales were protected by a workers compensation system that, by and large, offered safety and security to those unfortunate to have been injured at work. Against considerable advice, the Liberal-Nationals Government took an axe to that system in 2012 and stripped injured workers of this safety and security. Massive reductions were seen in the conditions provided to workers following an injury at work. Structural changes meant that injured workers were not able to get help from a lawyer, but large multinational companies were able to employ teams of lawyers to fight justifiable claims. Some workers with an injury assessed at more than 20 per cent impairment were required to complete 15 hours of paid work to meet that imposed standard for weekly compensation payments. If a person sought a review to a work capacity decision their compensation was immediately stopped and they would receive no payments during the length of the review.

I notice that the Minister responsible, the Hon. Dominic Perrottet, has stated that these changes will place the injured worker at the centre of decision-making and will lead to better support, incentivise safe workplaces and keep premiums down. I will not apologise for taking that with a grain of salt because it sounds awfully familiar to the contributions made by the Hon. Greg Pearce when, as the responsible Minister, he was pushing through the shameful, widely-denounced and perhaps now regretted changes in 2012. While many more aspects of the 2012 changes could and should be reversed, these first-step amendments address some of the concerns raised by the Labor opposition at the time and reported back by stakeholders, community groups and advocates after its implementation. Against the backdrop of these unfair changes that remain in the system there is no reason for the Government to be patting itself on the back.

The only reason this bill is being put forward, the only reason we are speaking about this today, is because of the actions in 2012 of this short-sighted, cruel-hearted Government. It is the inevitable result of a Government which refused to listen. Overwhelmingly in my discussions with people on this issue I have heard time and time again about the meanness of spirit of the 2012 changes—a meanness of spirit that started with the Liberal-Nationals Government and its legislation, spread to the insurers and agents, and ended up on the shoulders of injured workers; a meanness of spirit that has infected the workers compensation system in this State ever since.

The most important thing here is securing changes to the unfair and cruel system brought about by those opposite, but we should not forget the significant efforts of my Labor colleagues to stop the initial changes in 2012. The time spent pleading and persuading was of such magnitude that the Leader of the Government saw fit to introduce time limits following the debate. This is the ultimate validation of our efforts at that time. I am proud of the way Labor has always stood for the injured workers in this debate, because, fundamentally, people deserve the dignity of work, they deserve to be safe at work, and they deserve fair and decent support if they are injured while working.

Government is about choices and priorities, and when it comes to workers compensation, those opposite cannot help but show their hand. Equally, there is something to be said about the Government rushing through this legislation, especially given Reverend the Hon. Fred Nile's calls for an inquiry into the 2012 changes during the election campaign. All of my discussions with relevant stakeholders have emphasised that this is an incredibly complex area of law with many issues to be considered, so I find it hard to believe that a piece of legislation as complex and important as this could be canvassed to any level of satisfaction in a single sitting night.

While Reverend the Hon. Fred Nile and I will disagree on policy areas, I understand that he values and appreciates the great responsibility of being a legislator in the State's House of review. I have witnessed his work and commitment to the committee system. I know he would be well equipped to chair such an inquiry into the heartless workers compensation system that exists today. As has been noted before, we will support these changes, because they are desperately needed, but I want to make it perfectly clear that there is much more to do than exists in this bill.

I also touch on the repeated attempts by those opposite to convince themselves that under Labor the workers compensation scheme was in deficit and unsustainable. I refer members to the contribution yesterday of the shadow finance Minister, Clayton Barr, who pointed out that, in order to arrive at its deficit figures so often thrown around, the Government had to make a number of unrealistic and questionable assumptions. First, it assumed that the global financial crisis was a permanent fixture of the global economy and that investment returns would never increase from this period; secondly, it assumed that each injury would be realised at its worst-case scenario; and, finally, it assumed that every single worker drawing down on the fund would live to or exceed average life expectancy. These assumptions are clearly ridiculous and do not reflect a reasonable position—indeed, they were entirely constructed to create a sense of urgency and force through changes that this Government now seeks to reverse somewhat.

I turn briefly to the cognate bill attached by this Government to the Workers Compensation Amendment Bill, a cognate bill that will abolish the State's Workers Compensation Dust Diseases Board. This is a repugnant change from an out-of-touch and careless Government. It almost makes some sort of morbid sense that it would attach this bill to the workers compensation reversals, because it stems from the same cruel and insensitive belief from 2012 that vulnerable people should be left on their own. The changes which give effect to abolishing the Workers Compensation Dust Diseases Board are confusing—and I doubt that this confusion is accidental. At its core, though, this is an attempt to remove the independence of the board, and we are totally opposed to any such change.

One really does wonder about the motivations of a Government that seeks to remove benefits for sufferers of mesothelioma and other dust-borne diseases. Apart from removing the independence of the Workers Compensation Dust Diseases Board, the most concerning part of this bill is that there is no guarantee that the board will continue to operate. It is unacceptable to remove the independence of the board, which has been in existence for approximately 75 years, and then make its very existence contingent on the Minister's whim. This is a dubious set of changes that raises serious questions. Finally, I acknowledge the tireless work of the union movement—both their peak body, Unions NSW, and their many individual unions—on behalf of injured workers. I also acknowledge the countless emails I have received from members of the public imploring us to vote to protect the Workers Compensation Dust Diseases Board. I will be heeding their call. I call on those opposite and on the crossbench to heed it too. I thank the House.

The Hon. DANIEL MOOKHEY [6.45 p.m.]: Other Labor members have set out Labor's views on the Workers Compensation Amendment Bill 2015. I cannot add to their eloquence, so tonight I limit my remarks to the State Insurance and Care Governance Bill 2015. There is a reason why for 85 years governments, progressive and conservative, have retained a court of record to hear claims for injuries arising out of diseases such as aluminosis, asbestosis, asbestos-induced carcinoma, asbestos-related pleural disease, bagassosis, berylliosis, byssinosis, coal dust pneumoconiosis, farmer's lung, hard metal pneumoconiosis, pleural and peritoneal mesothelioma, silicosis, silicotuberculosis and talcosis.

That reason is culpability—the culpability of companies such as CSR and James Hardie, which peddled poisons like asbestos for generations, after knowing for generations that asbestos killed the workers who mined it, the people who bought it and those who by happenstance were unfortunate enough to have contact with it. It is the culpability of this Parliament and the other Commonwealth parliaments who, when presented with incontrovertible proof of the poison then being peddled, chose inertia instead of haste and let this product trade in the market, knowing that many could die, after seeing so many people die senseless deaths.

Culpability is the reason why, in 1989—after the last great push mounted by the great Australian trade union movement to end forever the lies and distortions of the candy store paupers whose balance sheets were breaking up the sky, when the moral revulsion against the blue sky miners reached a level of resonance deep enough—a conservative Government in New South Wales and a Federal Labor Government codified in our laws a promise.

That promise was that henceforth the responsibility for caring for the victims of dust diseases would be a responsibility shouldered by everyone, and that those most responsible for trafficking in this trade would be most responsible for meeting our collective commitment to the victims; that this commitment was redeemable by every victim of a dust disease, no matter the time or era of their infection, or the time or era their infection was discovered; that those infected would have their health needs met, their care needs satisfied, their financial needs provided and their families cared for—no matter their own longevity; and the actions of the care providers, the Government and the killer companies would be answerable to the writ of an independent court, a court that cared for the needs of dust disease victims more than it cared for the tactics, delays and endless litigation of those trying to absolve themselves of their moral and legal responsibilities.

We should not trifle with the sanctity of this promise, nor should we dwell under any illusion about the currency this promise has with the people of New South Wales. Witness the wrath incurred by James Hardie in 2005 when its unconscionable conduct offended the conscience of this State, and witness the actions of this Government these past 10 days: a sneak announcement followed by rushed legislation and the claim of a faux crisis justifying immediate action, all while taking out ads in the newspapers attacking those who dare draw the attention of the public to their actions. These are not the actions of a Government confident of its case. These are the actions of a Government fearful of the public's response—a Government so fearful that it dare not allow even a week to pass from the point of announcement to the point of legislation, lest in that week enough people have enough time to realise what the Government is doing, to realise that this Government is indeed engaged in a breach of promise.

In my contribution to this second reading debate I draw the attention of all members to the matters contained in this bill that put paid to the furphy peddled by the Minister that this bill makes only cosmetic changes to the Workers Compensation Dust Diseases Board, not fundamental changes to people's rights. I want to explain what those changes will mean for the victims of dust diseases. The bill makes several alterations to the Dust Diseases Board, the most significant of which is the abolition of the board's statutory independence. Rather than a court of record, which can appeal to the District Court to decide claims, the Act transfers the power of the board to a public servant—a public servant who possibly lacks tenure, who is answerable to the Minister and who can be dismissed at the Minister's whim, especially if the public servant gives privilege to the interests of victims over the prerogatives of the Government of the day.

Currently three benefits only are prescribed and capped by legislation. The board retains discretion over all other compensation policies. If this legislation passes through Parliament, all policies, processes and benefits—other than those determined by legislation—will be set by the Minister or the public servant who answers to the Minister. Parliament's consent will not be required and the Minister will not be required to make his or her decision via regulation. The decision to transfer the board's powers to the Minister also means the Minister has the final say about the board's financial structure such as how the assets which fund compensation for victims is managed.

Even at the height of the global financial crisis, the lowest funding ratio of the Dust Diseases Board compensation scheme was 89 per cent. This enabled the Dust Diseases Board to weather the downturn without touching its benefits or increasing its premiums. Currently the Dust Diseases Board compensation scheme is in surplus by \$200 million, which means 123 per cent of expected liabilities are covered. Victims who are aware of their infection and those who might be infected can take solace in knowing that the financial base of the Dust Diseases Board scheme is secure, stable and above the vicissitudes of this State's budgetary politics. If the Minister is given the final say over the management of the scheme's finances, every victim will know that the Minister can, at any time, strip the scheme of its surplus, thus using victims' entitlements to fund the budget shortfalls this Government constantly proclaims.

The bill also strips the board of its ability to fund medical research without ministerial consent. The board's new status will be advisory only. The board has a deep network throughout the medical research community but the Minister and public service do not. The board holds the trust of its victims who are needed to participate in medical trials but the Minister and the public service do not. Those networks and that trust will now move to the margins of the system and political competition will take their place. The victims of dust diseases will have to duel with the victims of other diseases in a morbid competition for scarce public funding.

The decisions to strip the board of its statutory independence, to hand authority for the compensation policies to the Minister, to permit the Minister to determine the structure of the scheme's finances and the requirement of ministerial consent for medical research will be the product of a political process. Every player—be it killer companies, insurers, or trial lawyers—will know their sway over a Minister is more important than their sway over an independent statutory authority that is subject to a District Court appeal. The impact of these changes will be felt by the victims and their families.

My wife is a family member of a victim who had extensive experience with the Dust Diseases Board. Her uncle, Andrew Lloyd, died of mesothelioma on 15 August 2011. He contracted the disease when conducting home renovations on a family farm in the 1970s. Mr Lloyd was part of the "second wave" of asbestos victims in Australia. Even though those exposed to asbestos through their work continue to be diagnosed and still are the bulk of victims, actuaries tell us that the second wave will grow and will soon exceed the number of industrial victims. Mr Lloyd fought for compensation until his last breath. He did not need to fight the Dust Diseases Board because he was immediately granted the ex gratia compensation payment. For many victims and their families, this might be the only compensation they receive. Too many are either unable or choose not to pursue additional compensation from the courts. Mr Lloyd could, and he did.

When he sued Amaca—the heir to James Hardie—for compensation for his loss of earnings, he was opposed at every turn. Amaca fought tooth and nail against Mr Lloyd's law suit. They denied responsibility, as those companies usually do, and they opposed compensation. Mr Lloyd did not spend the last day of his life with his family. Instead, he spent it with his lawyers, dictating a final affidavit from his hospital bed. Mr Lloyd passed away on the day he was due in court to give evidence to Amaca's lawyers in cross-examination. His estate won the case. However, Mr Lloyd worked in the field of medical technology and he was shocked to learn of the lack of support given to asbestos disease research so he bequeathed his winnings to the Asbestos Diseases Research Institute. More than \$1.2 million has been used to fund a clinical trial into new drugs to help mesothelioma sufferers.

Ahead of this debate I asked Mr Lloyd's family about their experience with the Dust Diseases Board and how it compared to their experience with the Amaca litigation. The Lloyd Family said that the Dust Diseases Board, unlike the court system, operated diligently, professionally and with kindness. It balanced its duties under law with generosity towards victims and their families. In contrast, the court system exposed the Lloyd family to the consequences of heavily contested litigation and subjected them to the disgraceful stalling tactics of Amaca's lawyers. This tactic is known as "stalling to death" and is routinely applied because if a victim dies prior to a claim being settled, the compensation paid is less.

If the Lloyd family were to repeat their experience under the system this bill creates, it would be different. Their immediate ex gratia payment would be paid only if a public servant agreed. If the public servant did not agree, it is not clear what the Lloyd family's rights would be. In all likelihood, they would have to undertake an administrative appeal, therefore, utilising administrative law before a generalist tribunal and/or in a generalist appellate system. There would be no specialist tribunal equipped with the hard-won knowledge and experience gleaned from years of dealing with dust diseases and the tactics of litigants. If the Government has a compelling reason for this change and if there is a public interest for this law that ameliorates some failure contained within the existing system, families such as the Lloyd family might understand why Parliament is endorsing a change. However, no compelling reason has been advanced.

We are told by the Minister that 85 years of jurisprudence by the Dust Diseases Board and its predecessors should be abolished because the Dust Diseases Board meets only once a month. Other members have already pointed out the shallowness of this statement and are supported by victims' groups, trade unions and most other stakeholders who have had contact with the Dust Diseases Board. In the past 14 months the Dust Diseases Board has adopted the following policies: enterprise risk management and risk appetite statement; compensation benefits prescribed rates payable; the strategic and operational risk register; proof of identity; circulatory resolution; application of lung cancers (ongoing); release of information to researchers; asbestos awareness funding; medical research project funding; internal audit and risk management; internal audit plan; apportionment of indivisible diseases; selection of senior counsel; suspension of payments to uncontactable beneficiaries; review award payments; closure of Dust Diseases Board trust accounts; Dust Diseases Board X-ray service; and matters pertaining to the Dust Diseases Board health and safety duties. Those policies have not been adopted by a lazy board; that is the work of an attentive board. Last year the Hon. David Clarke chaired an inquiry into the efficacy of the Dust Diseases Board. The committee concluded:

The overwhelming view of review participants is that the Dust Diseases Board and its compensation scheme are performing in an exemplary manner. It is a rare feat for a government agency to receive such uniform praise from stakeholders. The committee commends the board for performing its functions to such a high standard.

The committee was correct then and remains correct. The House should prefer the committee's views over that of the Minister, and this legislation should be rejected.

[The Deputy-President (The Hon. Natasha Maclaren-Jones) left the chair at 6.57 p.m. The House resumed at 8.00 p.m.]

The Hon. SHAOQUETT MOSELMANE [8.00 p.m.]: I make a short contribution to debate on the Workers Compensation Amendment Bill 2015 and the cognate State Insurance and Care Governance Bill 2015. I note the great contributions of my colleagues the Hon. Adam Searle, the Hon. Peter Primrose, the Hon. Lynda Voltz, the Hon. Courtney Houssos, the Hon. Sophie Cotsis and the Hon. Robert Brown. In particular, I note the excellent contribution of the Hon. Daniel Mookhey, who spoke elegantly on the State Insurance and Care Governance Bill 2015. I will limit my contribution to the Workers Compensation Amendment Bill 2015.

This House remembers the cruel and severe changes made to workers compensation by this Coalition Government in 2012. People lost their livelihoods and their self-esteem. Some may even have lost their families. This Government, the Premier and his Ministers need to answer for those who suffered unnecessary pain. The unconscionable changes made to the Workers Compensation Legislation Amendment Act in 2012 have left injured workers on the scrap heap, and with no real means of support. Many of those workers had dedicated their lives to their chosen profession but because of injury they were forced to give everything up. Apart from the physical pain, mental trauma is also associated with one not being able to pay bills as the cost of living continues to rise. Many have been caught up in these circumstances. Many still suffer the consequences of the Coalition Government's gutting of workers compensation in 2012.

I can remember standing here in 2012 and opposing the Workers Compensation Legislation Amendment Bill 2012. That bill introduced major cuts to the workers compensation scheme, which substantially undermined support for injured workers in New South Wales. I said that families would be ripped apart by denying injured workers the protections they deserve. Workers deserve financial and moral support when they are injured. When that legislation was introduced I asked, "Who will pay for the injured parents to look after their families, children and dependents? Who will pay for the children's education and childcare? Who will put food on the table or attend to the medical needs of the family when injury strikes?" It is shameful that such legislation was proposed and adopted.

The principle of workers compensation is to compensate the injured worker, not to inundate the worker with further burdens of financial pain and suffering. When the then Treasurer and member for Manly, Mr Mike Baird, introduced the Workers Compensation Legislation Amendment Bill 2012 he said that he was pleased to introduce it because it would "ensure better protection for injured workers". Now, in 2015, the Government is forced to amend its legislation. What an outrageous statement that was, given the detrimental effect the bill has had on the wellbeing of hundreds of thousands of workers and their families. The changes outlined in the Workers Compensation Amendment Bill 2015 are an improvement on the disastrous changes brought about in 2012. Any improvement to the lives of poor workers is welcomed by this Opposition. After three years of suffering the Government has finally moved to rectify the damage it caused in 2012. The Opposition will support the workers compensation part of this cognate legislation but we will be moving amendments to further assist those individuals and families who need or will need workers compensation.

This bill will make a number of changes, including amending the limitation on the payment of compensation provisions for medical and related treatments insofar as they will not apply to crutches, artificial aids, home or vehicle modifications or secondary surgery. The limitations will no longer apply to a worker with 21 to 30 per cent permanent impairments. The limitations will be changed from 12 months to two years for workers with less than 10 per cent impairment, and from 12 months to five years for workers with an 11 per cent to 20 per cent impediment. A worker with an injury of more than 20 per cent impairment will no longer be required to complete 15 hours of paid work to meet the standard for weekly compensation payments. These are all welcome improvements. A number of other changes include the proposal for a lump sum increase of \$226,000 to be payable on the death of a worker. Each year about 100 deaths occur at work. This will bring the collective cost to around \$22.6 million.

The scheme currently has surplus funds of \$2.6 billion so there is capacity for those death payments to be above what is proposed. Surely, there can be no more worthy recipients of such payments than families who have lost their loved ones because of a workplace injury. The Labor Opposition also argues that the time limits in the bill should be removed from medical expenses and treatments. Injured workers should be entitled to the treatment necessary to restore their health to the level it was before they sustained the injury.

DEPUTY-PRESIDENT (The Hon. Natasha Maclaren-Jones): Order! There is too much audible conversation in the Chamber.

The Hon. SHAOQUETT MOSELMANE: It is unfair to impose time limits on treatments and medical care. They represent ticking time bombs. Each case is different. Not all cases can be accurately foreshadowed and medical treatment takes time to work. The priority for an injured worker to be returned to the level of health they enjoyed before injury should come above all else. The Labor Opposition also argues for the reinstatement of journey claims. Many workers are expected to work late into the night. If an injury should befall such a worker as he or she travels home then the employer should take some responsibility. The onus must be on the employer to take responsibility for his or her employees at all times, including during journeys to and from work. It is not good enough for an employer to turn a blind eye to workplace safety or for legislation to make life hell for an injured worker who has already lost so much. As I have said, the Opposition will not oppose the Workers Compensation Amendment Bill 2015 but we will be moving amendments to it. The Opposition will oppose the State Insurance and Care Governance Bill 2015.

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) [8.08 p.m.], in reply: I thank members for their contributions to debate. The Liberal-Nationals Coalition is committed to protecting the most vulnerable in our community. We are proud of our record; that includes our record on workers compensation. The Workers Compensation Amendment Bill 2015 and the cognate State Insurance and Care Governance Bill 2015 contain a package of reforms intended to make the workers compensation system in this State fairer, sustainable and focused on the customer. The restoration of financial stability of the WorkCover insurance scheme has created the opportunity for this Government to enhance benefits to injured workers and for the transition of this scheme to a model which is fair and has excellent service delivery at its heart. This is about better supporting injured workers in New South Wales.

We can and should be doing better for the injured workers of New South Wales who are currently interacting with a system that is difficult to navigate, where benefit entitlements are uncertain and treatment and return to work pathways are often unclear and unpredictable. The benefit enhancements being introduced by the Government are focused on three simple objectives: to help workers with the highest needs with enhanced benefits and support; to assist people to return to work, which all the evidence tells us is the best outcome for injured workers; and to make sure that all the changes to benefits will not compromise the financial sustainability of the scheme. They are anticipated to benefit thousands of injured workers now and into the future, with the total reform package expected to be worth about \$1 billion. They also honour the commitment the Government gave to the people of New South Wales prior to the last election relating to benefit and premium reform.

The creation of a single insurance service provider, a single regulator of insurance and an independent workplace safety regulator puts customers and their needs and goals at the centre of decisions, not at the end. The new structure will be much more transparent and accountable and, most importantly, lead to better outcomes for injured workers. It also responds to one of the main criticisms that came through the various reviews into WorkCover over the past two years, namely, the inbuilt conflict between the regulatory and operational service delivery functions. It meets the calls of stakeholders in the system as well. At its core, these reforms are about shifting from an adversarial insurance model to a customer-centric and empathetic one. These

changes will retain a strong, independent regulator in the State Insurance Regulatory Authority[SIRA], a focused risk-based regulator for work health and safety in Safe Work NSW, and a highly customer-focused service organisation in Insurance and Care NSW. I commend the bills to the House.

DEPUTY-PRESIDENT (The Hon. Natasha Maclaren-Jones): The Hon. Adam Searle has requested that under Standing Order 139 the question on the second reading of the bills be put separately. Therefore, I will put the question on the Workers Compensation Amendment Bill 2015 first.

Question—That the Workers Compensation Amendment Bill 2015 be now read a second time—put and resolved in the affirmative.

Motion agreed to.

Workers Compensation Amendment Bill 2015 read a second time.

Question—That the State Insurance and Care Governance Bill 2015 be now read a second time—put.

The House divided.

Ayes, 20

Mr Ajaka	Mr Gay	Mrs Mitchell
Mr Amato	Mr Green	Reverend Nile
Mr Blair	Mr Khan	Mr Pearce
Mr Clarke	Mr MacDonald	Mrs Taylor
Ms Cusack	Mrs Maclaren-Jones	<i>Tellers,</i>
Mr Farlow	Mr Mallard	Mr Colless
Mr Gallacher	Mr Mason-Cox	Dr Phelps

Noes, 17

Ms Barham	Mrs Houssos	Mr Veitch
Mr Borsak	Mr Mookhey	Ms Voltz
Mr Brown	Mr Pearson	Mr Wong
Mr Buckingham	Mr Primrose	<i>Tellers,</i>
Ms Cotsis	Mr Searle	Mr Moselmane
Dr Faruqi	Mr Shoebridge	Mr Secord

Pair

Mr Franklin

Mr Donnelly

Question resolved in the affirmative.

Motion agreed to.

State Insurance and Care Governance Bill 2015 read a second time.

In Committee

The CHAIR (The Hon. Trevor Khan): Order! The Committee will deal first with the Workers Compensation Bill 2015. If there is no objection, the Committee will deal with the bill as a whole.

Mr DAVID SHOEBRIDGE [8.24 p.m.], by leave: I move The Greens amendments Nos 1 and 2 on sheet C2015-042A in globo:

No. 1 **Continuation of weekly payments after second entitlement period**

Page 4, schedule 2. Insert after line 2:

[1] **Section 32A Definitions**

Omit "an aggregate period of 117 weeks (whether or not consecutive)" from the definition of *second entitlement period*.

Insert instead "any period".

No. 2 Continuation of weekly payments after second entitlement period

Pages 4 and 5, schedule 2 [3]–[6], line 16 on page 4 to line 3 on page 5. Omit all words on those lines. Insert instead:

[3] Sections 38–40

Omit the sections.

This is our chance to right some of the very real wrongs that were occasioned as a result of the 2012 reforms. Perhaps one of the most significant wrongs in the 2012 amendments was the very real cap on workers compensation rights for ongoing weekly payments. The proposed amendments, consistent with the 2012 reforms, will provide two entitlement periods for workers compensation. The first entitlement period for workers with an injury is not impacted by the level of whole-person impairment. The second entitlement period for most workers would end after 130 weeks of payments in total.

The primary way in which that second entitlement period is so significantly limited is in the definition of "second entitlement period" in section 32A which was, for relevant purposes, inserted in the 2012 amendment Acts. Currently, the second entitlement period—which is available only to workers who have a whole-person impairment of more than 20 per cent but less than 30 per cent—is only payable in relation to a claim for compensation in the form of weekly payments made by a worker. It is defined in section 32A as follows:

second entitlement period, in relation to a claim for compensation in the form of weekly payments made by a worker, means an aggregate period of 117 weeks (whether or not consecutive) after the expiry of the first entitlement period in respect of which a weekly payment has been paid or is payable to the worker.

In other words, there is a hard and fast end to the second entitlement period of 117 weeks after the expiry of the first entitlement period. The Greens amendment No. 1 proposes to change that definition by omitting the words "an aggregate period of 117 weeks (whether or not consecutive)" from that definition of "second entitlement period" and inserting in lieu "any period". The Greens amendment No. 1 will make the relevant definition in section 32A as follows:

second entitlement period, in relation to a claim for compensation in the form of weekly payments made by a worker, means any period after the expiry of the first entitlement period in respect of which a weekly payment has been paid or is payable to the worker.

Instead of being limited by 117 weeks, it will be any period beyond the expiry of the first entitlement period. There are necessary and consequential amendments, being the omission of sections 38, 39 and 40. I will not detail them in this debate but those sections provide significant limitations on who can access that second entitlement period and greatly limit the number of workers who can access that second entitlement period. By deleting sections 38, 39 and 40, The Greens amendments will have this effect. That if a person receives an injury at work, provided that work is a significant contributing factor to the injury and whilst ever that injury provides an incapacity at work that reduces a person's ability to earn wages on the open labour market, as defined through the work capacity assessments—so whilst ever that incapacity is on the books and provided the person has gone through those rather complicated formulas that are found in sections 33, 34, 35, 36 and 37—the person has an entitlement to make up compensation that is no greater than seriously injured workers already would have access to in that second entitlement period.

But it would not end after 117 weeks. It would continue until the worker reaches retirement age, in accordance with section 52 of the Act. The retirement age under section 52, as the Hon. Adam Searle noted in his second reading contribution, is linked to the age at which injured workers are entitled to receive the aged pension. Indeed, in line with one of the positive amendments in the bill, it would be 12 months after the entitlement to receive a Commonwealth pension, by operation of section 52 and, I think, a provision in the schedule that defines pension age.

Taken together, these two amendments right a very substantial wrong in the 2012 so-called reforms. Those reforms cut off most workers after 2½ years, with only a handful of workers getting through to five years of weekly payments and only the most appallingly injured workers having any entitlement to compensation beyond five years. These amendments seek to return decency to the workers compensation system. Let us say loudly and clearly, workers who are injured at work are not injured through any fault of their own. Those who suffer a work-related injury, which means they cannot earn on the open labour market as they could before, should be entitled to top-up compensation. This is not overly generous compensation.

It is already substantially less than 85 per cent of the injured worker's wages, as calculated under the Workers Compensation Act. If the insurance company thinks the injured worker can get a job and is not

suffering a wage loss, the company can contest the worker's rights. Of course, there should be a forum to have those rights enforced. It is a simple principle. If the worker did not mean to get injured at work—and no worker means to get injured—and is suffering a work-related incapacity as a result of that injury, that worker should be entitled to some decent weekly compensation throughout the rest of that person's working life. That is what these amendments do. The scheme is heading for a \$6 billion surplus by 2019 and can afford to return this level of decency to injured workers. I commend the amendments to the Committee.

The Hon. ADAM SEARLE (Leader of the Opposition) [8.32 p.m.]: The Labor Opposition will support these amendments moved by The Greens.

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) [8.32 p.m.]: The Government does not support The Greens amendments Nos 1 and 2. The proposed change in the bill is to remove the requirements but only for workers with an assessed permanent impairment of more than 20 per cent. The independent scheme actuary, PricewaterhouseCoopers, has advised that removing the restrictions to receive weekly payments to retirement age under section 38 for all injured workers would cost the scheme \$3.58 billion and immediately plunge it back into deficit.

Mr DAVID SHOEBRIDGE [8.33 p.m.]: Probably the most remarkable thing about the Government's contribution is it did not even consider the impact on injured workers. It simply asserts that it is going to draw the line for access to weekly payments at a threshold of more than 20 per cent. It has not considered the fact that a manual worker with an ankle fusion is assessed to have a whole-person impairment of about 9 per cent or 10 per cent at most. A park ranger who has a terrible accident at work and has half a foot amputated gets an 18 per cent whole-person impairment assessment and compensation is cut off at a maximum of five years under this scheme.

A retail worker who slips at work and has a nasty fall resulting in a badly injured back with a prolapse on only one level, which may require a spinal fusion because of the pain and referred radiculopathy into the legs, is likely to get 14 per cent or at the outside 15 per cent whole-person impairment and compensation is chopped off at a maximum of five years. What does the Government expect the injured retail worker to do after the workers compensation is chopped off? That very set of circumstances is a real-life problem faced by thousands of workers. What does the Government expect a park ranger who has lost half a foot to do after workers compensation payments are cut off at a maximum of five years? The foot will not grow back; the incapacity will remain for the entirety of the person's working life. Under the Government's mean scheme, workers compensation benefits will be cut off at a maximum of five years.

What does the Government say to a building labourer who trips and falls on a multilevel construction site, such as Barangaroo, and as a result has an ankle fusion and cannot return to work in the construction industry? Perhaps that worker's second language is English. What does the Government say to that worker who is assessed at 11 per cent whole-person impairment and compensation is chopped off after five years of benefits? Currently, in this debate the Government has said nothing because the real-life impact of the workers compensation scheme after the cuts it made in 2012 does not factor in this Government's calculation. The impact should factor in the calculation and that is why The Greens have moved these amendments.

Question—That The Greens amendments Nos 1 and 2 [C2015-042A] be agreed to—put.

The Committee divided.

Ayes, 16

Ms Barham
Mr Buckingham
Ms Cotsis
Dr Faruqi
Mrs Houssos
Mr Mookhey

Mr Pearson
Mr Primrose
Mr Searle
Ms Sharpe
Mr Shoebridge
Mr Veitch

Ms Voltz
Mr Wong
Tellers,
Mr Moselmane
Mr Secord

Noes, 22

Mr Amato
Mr Blair
Mr Borsak
Mr Brown
Mr Clarke
Mr Colless
Ms Cusack
Mr Farlow

Mr Gallacher
Mr Gay
Mr Green
Mr Harwin
Mr MacDonald
Mrs Maclaren-Jones
Mr Mallard
Mr Mason-Cox

Mrs Mitchell
Reverend Nile
Mr Pearce
Mrs Taylor
Tellers,
Mr Franklin
Dr Phelps

Pair

Mr Donnelly

Mr Ajaka

Question resolved in the negative.**The Greens amendments Nos 1 and 2 [C2015-042A] negatived.**

The Hon. ADAM SEARLE (Leader of the Opposition) [8.45 p.m.]: I move Opposition amendment No. 1 on sheet C2015-033D:

No. 1 **Determining what constitutes suitable employment for purposes of weekly compensation**

Page 4, schedule 2. Insert after line 15:

[3] Section 32A, definition of "suitable employment"

Omit the definition. Insert instead:

suitable employment, in relation to a worker, means employment in work for which the worker is currently suited having regard to the following:

- (a) the nature of the worker's incapacity and the details provided in medical information including, but not limited to, any certificate of capacity supplied by the worker under section 44B,
- (b) the worker's age, education, skills and work experience,
- (c) any plan or document prepared as part of the return to work planning process, including an injury management plan under Chapter 3 of the 1998 Act,
- (d) any occupational rehabilitation services that are being, or have been, provided to or for the worker,
- (e) whether the work or the employment is available,
- (f) whether the work or the employment is of a type or nature that is generally available in the employment market,
- (g) the nature of the worker's pre-injury employment,
- (h) the worker's place of residence,
- (i) such other matters as the Workers Compensation Guidelines may specify.

Opposition amendment No. 1 modifies what is taken into account when deciding what is suitable employment for the purposes of determining a worker's entitlement to weekly compensation by way of income support. The amendment proposes a change to the definition of "suitable employment" found in section 32A of the Workers Compensation Act 1987. It provides that suitable employment means employment for which the worker is currently suited having regard to a number of factors. In subsection (a) of the definition those factors are the nature of the worker's incapacity, the details provided in medical information, the worker's age, education, skills and work experience, any injury management plan prepared, any occupational rehabilitation services being used, and such other matters as the guidelines may specify. So far so good; however, the sting is in the tail.

Subsection (b) of the definition of suitable employment means employment in work for which the worker is currently suited regardless of whether the work or the employment is available, whether the work or

the employment is of a type or nature that is generally available in the employment market, the nature of the worker's pre-injury employment and the worker's place of residence. The current definition, which is important for work capacity testing as well as determining weekly compensation, purports to provide a regime of testing a worker's capacity for work and therefore earnings, but it does so in a way that is completely disconnected from the real world and has no regard to the important matters included in Opposition amendment No. 1.

We say that the matters included in the amendment are all important. They are the nature of the worker's incapacity, the worker's age, education, skills and work experience, whether the work or employment is available, whether the work or employment is of a type or nature generally available in the employment market, the nature of the pre-injury employment and, importantly, the place of residence and other matters such as the guidelines may specify. Unless suitable employment is connected with a real-world situation it is nothing but a cruel hoax being perpetrated on injured workers.

As I indicated in my contribution to the second reading debate, the current regime creates a situation in which workers are tested for a mythical or abstract capacity that they have no real connection with. I gave the example of a manual worker who is perhaps very skilled in their field of steelwork or fitting and turning being assessed as excellently suited for filing or clerical duties regardless of their literacy or computer and technology skills. That is cruel hoax perpetrated by the Government's existing legislation. As I indicated earlier, the bill represents a small step back from the precipice towards some semblance of balance.

However, it would be remiss of this Chamber as a house of review if it did not seek to change this aspect of the existing legislation, not to throw out work capacity testing as most injured workers and their supporters would advocate because its effect has been so pernicious and harsh and has cast them out of the scheme, but to modify it. If we are to have such a testing regime, we should connect it to the real world and to the worker's incapacity, age, education, skills and pre-injury occupation. Is the work for which they are being assessed as suitable available in the real world, or is it realistically available to them given their place of residence and any travel restrictions their injury may have imposed?

I remember arguments with an insurer prior to these terrible reforms being enacted about a return to work plan for an applicant for whom I acted. The insurer and the employer felt that the worker could return to work at a certain location with modified duties, but it involved a three-hour trip. The applicant could not drive and would have to travel on public transport. Given the nature of the restrictions—testified to even by the insurer's doctor—there was no way known the worker could travel six hours a day to do the work. At least the old system involved real-world testing. I ask members to support the Opposition in amending the definition of suitable employment. If we are to keep work capacity testing, let it at least be connected to the real world. Let us make it meaningful; let us not make it a punishment imposed on injured workers. We should not have a mythical test for work that may not exist or, if it does, may not be realistic because of the worker's injury, work experience or other matters that must be taken into account.

The Hon. NIAL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) [8.51 p.m.]: The Government opposes Opposition amendment No. 1. Changing the definition of suitable employment would cost the scheme \$251 million, which would take it below the target solvency ratio. The Government has invested in providing job-ready and retraining assistance to help people return to work. The creation of the State Insurance Regulatory Authority and Insurance and Care NSW will strengthen centrality, which will mean rehabilitation providers and case managers will work with injured workers to help them with options to recover and to transition back into the workplace.

Mr DAVID SHOEBRIDGE [8.52 p.m.]: The Greens support Opposition amendment No. 1. If the amendment were agreed to it would be a successful attempt to fix a real injustice in the current scheme. For the bulk of the period during which a worker has an entitlement to workers compensation, having suffered an injury, they will receive about 85 per cent of their average weekly earnings before the injury. It must be kept in mind that that is the statutory definition of average weekly earnings; it is a mean definition. The scheme then deducts what the insurer thinks the worker could be earning in suitable employment.

If the definition of suitable employment had any connection with what a worker could do given their injury, we would say that that is how the scheme should operate—we should work out what the worker was earning before the injury and knock off a bit. That seems to be the way that compensation schemes work, that is how they should work, and that was essentially the way it worked prior to 2012. The Opposition is seeking to

restore to the legislation the definition of suitable employment as it was. It wants suitable employment to mean employment in work for which the worker is currently suited having regard to certain issues. The Opposition's amendment provides:

suitable employment, in relation to a worker, means employment in work for which the worker is currently suited having regard to the following:

- (a) the nature of the worker's incapacity and the details provided in medical information including, but not limited to, any certificate of capacity supplied by the worker under section 44B,

That means a medical certificate stating what they can do. It might be that the worker cannot stand up for three hours, needs a break, cannot lift more than five kilograms, and should not be in the near vicinity of lunatics or the dangerous individuals who caused their psychological injury. Those kinds of medical restrictions limit the work an injured worker can do. The amendment provides that suitable employment should have regard for:

- (b) the worker's age, education, skills and work experience,

Of course that is relevant. A 62-year-old worker who has always done manual work and whose second language is English realistically will not retrain as an IT worker or a banker. They have always done manual work, English is not their mother tongue, and they might have problems reading complicated documents. That must be taken into account. Suitable employment should also involve:

- (c) any plan or document prepared as part of the return to work planning process, including an injury management plan ...

That is good. An injury management plan is meant to be done with competent insurance assistance by someone engaged through the insurance scheme. They can work out a return to work plan and take that into account when determining what work an injured worker can do. It must take into account:

- (e) whether the work or the employment is available,

Surely that would be taken into account. It further requires that it consider:

- (f) whether the work or the employment is of a type or nature that is generally available in the employment market,

Of course. There would be no point in saying that a worker's suitable employment is at the Holden factory in Adelaide given that the Federal Government has decided to close it. The amendment provides that the definition of suitable employment should also take into account:

- (g) the nature of the worker's pre-injury employment,

Obviously their work skills should be relevant to what employment is suitable after the injury. It must also consider:

- (h) the worker's place of residence,

If they live in Bega there is no point in identifying a job option in Ballina. The amendment concludes with:

- (i) such other matters as the Workers Compensation Guidelines may specify.

The Greens find that last provision difficult to accept. It effectively gives carte blanche to the executives to do whatever they like regardless of the legislation passed by this Chamber. By and large, it is a rational definition of suitable employment, and surely rational legislators would support it. The Act states:

"suitable employment", in relation to a worker, means employment in work for which the worker is currently suited:

- (a) having regard to:
 - (i) the nature of the worker's incapacity and the details provided in medical information including, but not limited to, any certificate of capacity supplied by the worker (under section 44B)—

that sounds good—

—having regard to the nature of the worker's incapacity and details provided in medical information, including but not limited to any certificate of capacity supplied by the worker.

Tick! That is good. It continues:

- (ii) the worker's age, education, skills and work experience.

Tick! That is rational. It continues:

- (iii) any plan or document prepared as part of a return to work plan process, including an injury management plan.

Tick! It continues:

- (iv) any occupation or rehabilitation services that are being or have been provided to or for the worker.

Tick! It continues:

- (v) such other matters as the WorkCover guidelines may specify.

That is problematic, but I understand that the Opposition and the Government think that should be relevant. Then we get to the sting in the tail with section 32A as inserted by the ugly 2012 reforms. It states that the definition of "suitable employment" is "regardless of whether the work or the employment is available". They can identify a job that does not exist and say, "Well, we're going to reduce your worker's compensation entitlements by the equivalent of what you would have earned working in the Holden car factory in Adelaide, even though it has shut down." So that is the kind of bizarre and irrational treatment—it is downright bastardry—faced by injured workers day in and day out under the current system. The other thing there is to be no regard given to under the current law is:

... whether the work or the employment is of a type or nature that is generally available in the employment market ...

So there might be only one of these jobs for every single injured worker. Yet they could find every single workers compensation entitlement reduced by that one job. The job might be the one nuclear scientist technician at Lucas Heights. Yet every single worker's entitlement can be reduced by the mythical \$700 they could get being that one technician at Lucas Heights—even though we have only one nuclear reactor in the country.

The "suitable employment" also has no regard to "the nature of the worker's pre-injury employment". It has no regard to the nature of the worker's pre-injury employment. So the fact that the worker might have been a manual worker or a builder all of their life is just completely disregarded. What could be more important, when working out suitable employment for a worker, than looking at what they have done in their working life up until the point at which they got injured? Surely that would be crucial. But it is written out of the definition in the current law. The last thing that insurers are to have no regard to when working out what suitable employment a worker could get is the worker's place of residence. One would have thought that for The Nationals—who are meant to be here supporting workers in the bush—this would be something they would die in a ditch over. There are people in regional and rural New South Wales who live in Dubbo or Lismore—

The Hon. Rick Colless: How would you know? You've never been there.

Mr DAVID SHOEBRIDGE: I note the interjection from the Hon. Rick Colless. If you have gotten out and spoken to injured workers in the country, shame on you.

The CHAIR (The Hon. Trevor Khan): Order! Mr David Shoebridge should address his remarks through the Chair and not direct them at members.

Mr DAVID SHOEBRIDGE: If the injured worker lives in Lismore, Dubbo or Bega, workers compensation insurers are reducing their workers compensation entitlements because of jobs available in Parramatta and in the heart of Sydney. There are doing that day in and day out. They are saying to injured workers, "Well, tough luck, because the law says we can do it. You should just up and move. We have no regard for where you live." Surely The Nationals should realise how obscene that is in the Workers Compensation Act. But, no, I have not heard a single member from The Nationals raise that as an issue in this debate. It is as though the National party is a silent little puppy on a tight leash from the Liberal Party. It is not allowed to go out and actually have an independent view or represent the interests of its constituents. It has been told, "Don't you dare say a word about this. Just suck it up." The Government does not care what the impact will be on regional workers. The only thing I have heard is the kind of little sotto voce insult like I just got then from the Leader of the House.

The CHAIR (The Hon. Trevor Khan): Order! I remind Mr David Shoebridge to address the amendment. This is not a second reading debate. I also invite Government members not to interject. This debate will proceed much more quickly if Mr David Shoebridge can make his remarks without interruption. I remind Mr David Shoebridge to direct his remarks to the amendment and not to speak more generally about the bill.

Mr DAVID SHOEBRIDGE: Could there be a more important part of these amendments to regional and rural workers than fixing up this gross definition of suitable employment? Well, maybe—reinstating their medical benefits generally and reinstating their weekly benefits generally would be important. When you get to the nub of it, the current law actively discriminates against people who do not live in the centre of Sydney. These are vulnerable people who are suffering from an injury and who should have their rights protected under the Workers Compensation Act. I urge members who are concerned about the thousands of workers who have injuries and who do not have access to the single largest employment market in the State to look to this, to look to their conscience and to support the Opposition amendment. I urge members to right a major wrong, which was caused in 2012, by supporting this amendment.

The Hon. ROBERT BROWN [9.04 p.m.]: We were told that the first amendment moved by Mr David Shoebridge was going to cost the scheme \$3.8 billion or thereabouts. Amendment Nos 5 and 6 moved by Mr David Shoebridge, which seemed pretty good, would cost a couple of billion dollars. This particular amendment from the Leader of the Opposition, Opposition amendment No. 1, is going to cost only \$250 million.

The Hon. Adam Searle: But over what period of time?

The Hon. ROBERT BROWN: Let us not go too deeply into some of these things. It would therefore seem to me that, seeing as how the Government has done such a wonderful job improving the fortunes of the workers compensation scheme—to the tune of \$6 billion or \$4 billion, whatever it is, in the black—this is a fairly cheap piece of industrial justice. One of the platforms of the Shooters and Fishers Party is that we are committed to looking after rural and regional New South Wales. I will not lecture The Nationals on whether or not they do that. But it would seem to me that if there is one amendment the Government could possibly agree to then this one—an el cheapo little one costing only \$250 million—would be the one to go for. On that basis, the Shooters and Fishers Party will support this amendment moved by the Leader of the Opposition.

Question—That Opposition amendment No. 1 [C2015-033D] be agreed to—put.

The Committee divided.

Ayes, 18

Ms Barham	Mr Pearson	Ms Voltz
Mr Borsak	Mr Primrose	Mr Wong
Mr Brown	Mr Searle	
Mr Buckingham	Mr Secord	
Ms Cotsis	Ms Sharpe	<i>Tellers,</i>
Dr Faruqi	Mr Shoebridge	Mrs Houssos
Mr Mookhey	Mr Veitch	Mr Moselmane

Noes, 20

Mr Ajaka	Mr Gallacher	Mrs Mitchell
Mr Amato	Mr Gay	Reverend Nile
Mr Blair	Mr Green	Mr Pearce
Mr Clarke	Mr Harwin	Mrs Taylor
Mr Colless	Mrs Maclaren-Jones	<i>Tellers,</i>
Ms Cusack	Mr Mallard	Mr Franklin
Mr Farlow	Mr Mason-Cox	Dr Phelps

Pair

Mr Donnelly

Mr MacDonald

Question resolved in the negative.

Opposition amendment No. 1 [C2015-033D] negatived.

The Hon. ADAM SEARLE (Leader of the Opposition) [9.14 p.m.]: I seek leave to move Opposition amendments Nos 2 to 8 inclusive, No. 12, No. 16 and No. 19 on sheet C2015-033D in globo.

Leave granted.

The CHAIR (The Hon. Trevor Khan): Order! Notwithstanding that leave is granted, I note that The Greens amendment No. 3 is in conflict with Opposition amendment No. 3. Therefore, Mr David Shoebridge might like to move The Greens amendment No. 3 at the same time as Opposition amendment No. 3. The Greens amendment No. 4 is in the same position, essentially as an alternative option, as Opposition amendment No. 12, so The Greens amendment No. 4 could be moved at the same time as Opposition amendment No. 12. The Committee will deal first with The Greens amendment No. 3. If The Greens amendment No. 3 is carried, that will defeat Opposition amendment No. 3.

Mr DAVID SHOEBRIDGE [9.17 p.m.]: I am comfortable with that. I will move The Greens amendment 3, if the Committee agrees that I move amendments Nos 3 and 4 together.

The Hon. ADAM SEARLE (Leader of the Opposition) [9.17 p.m.]: I have a better idea. What if I just do not move Opposition amendment No. 3?

The CHAIR (The Hon. Trevor Khan): That would be another way of proceeding.

The Hon. ADAM SEARLE: Therefore, I will not now move Opposition amendment No. 3, in order to remove that particular problem.

The CHAIR (The Hon. Trevor Khan): In regard to Opposition amendment No. 12, would the Hon. Adam Searle like to move that separately as well, because there is, in a sense, a conflict with The Greens amendment No. 4?

The Hon. ADAM SEARLE: For ease, I am happy to move Opposition amendment No. 12 separately. Therefore, by leave, I move Opposition amendments Nos 2, 4 to 8, 16 and 19 in globo:

No. 2 Merit review by IRO of work capacity decision of insurer

Page 5, schedule 2 [8], line 17. Insert ", any appeal from such a review under section 44BG" after "section 44BB".

No. 4 Merit review by IRO of work capacity decision of insurer

Page 5, schedule 2. Insert after line 19:

[10] Section 44 (1) (b)

Omit section 44 (1) (b) and (c). Insert instead:

- (b) by the Independent Review Officer as a merit review of the decision, but not until the decision has been the subject of internal review by the insurer.

[11] Section 44 (2)

Omit "review by the Authority or". Insert instead "merit review by".

No. 5 Merit review by IRO of work capacity decision of insurer

Page 5, schedule 2. Insert after line 23:

[11] Section 44 (3) and (3A)

Omit section 44 (3). Insert instead:

- (3) An application for merit review by the Independent Review Officer may be made without an internal review by the insurer if the insurer has failed to conduct an internal review and notify the worker of the decision on the internal review within 30 days after the application for internal review is made.

(3A) The following provisions apply to the merit review of a work capacity decision by the Independent Review Officer:

- (a) an application for review must be made within 30 days after the worker receives notice in the form approved by the Authority of the insurer's decision on internal review of the decision,
- (b) the worker and the insurer must provide such information as the Independent Review Officer may reasonably require and request for the purposes of the review,
- (c) the Independent Review Officer may decline to review a decision because the application for review is frivolous or vexatious or because the worker has failed to provide information requested by the Independent Review Officer,
- (d) the Independent Review Officer is to notify the insurer and the worker of the findings of the review and may make recommendations to the insurer based on those findings (giving reasons for any such recommendation),
- (e) recommendations made by the Independent Review Officer are binding on the insurer and must be given effect to by the insurer.

No. 6 Merit review by IRO of work capacity decision of insurer

Page 5, schedule 2 [12], lines 26 and 27. Omit all words on that line. Insert instead:

[12] Section 44 (5)

Omit the subsection. Insert instead:

- (5) The Commission is not to make a decision in proceedings concerning a dispute about weekly payments of compensation payable to a worker while:
 - (a) a work capacity decision by an insurer about those weekly payments is the subject of a review under this section, or
 - (b) the time for making an application for such a review has not expired, or
 - (c) a merit review under this section is the subject of an appeal or the time for making such an appeal has not expired.

No. 7 Merit review by IRO of work capacity decision of insurer

Page 6, schedule 2 [14], proposed section 44BC (2) (b), line 18. Omit "review by the Authority), or". Insert instead "merit review by the Independent Review Officer)".

No. 8 Merit review by IRO of work capacity decision of insurer

Page 6, schedule 2 [14], proposed section 44BC (2) (c), lines 19 and 20. Omit all words on those lines.

No. 16 Merit review by IRO of work capacity decisions of insurer

Page 17, schedule 6, lines 23–36. Omit all words on those lines. Insert instead:

7 Determining what constitutes suitable employment

The amendment made by the 2015 amending Act to substitute the definition of *suitable employment* in section 32A of the 1987 Act extends to a work capacity decision of an insurer made before the commencement of that amendment, where the decision had not been finally determined before that commencement.

8 Work capacity reviews

- (1) An amendment made by the 2015 amending Act to section 43 or 44 of the 1987 Act, or to insert Subdivision 3A of Division 2 of Part 3 of the 1987 Act, extends to a work capacity decision of an insurer made before the commencement of that amendment, where the decision had not been finally determined before that commencement, but only if no review had been commenced under section 43 (1) (b) or (c) of the 1987 Act before that commencement.
- (2) Section 44BF of the 1987 Act, as inserted by the 2015 amending Act, extends to a work capacity decision of an insurer made before the commencement of that section, where the decision had not been finally determined before that commencement.

No. 19 **Merit review by IRO of work capacity decision of insurer**

Page 18. Insert after line 38:

**Schedule 7 Amendment of Workplace Injury Management and Workers Compensation Act 1998
No 86—merit review of work capacity decisions**

[1] Section 27 Functions of Independent Review Officer

Omit "review" from section 27 (b). Insert instead "conduct merit reviews of".

[2] Section 105 Jurisdiction of Commission and Compensation Court

Omit the note to section 105 (1).

I think that removes the need for any doubling up.

The CHAIR (The Hon. Trevor Khan): The Committee will go back and deal with The Greens amendment No. 3.

Mr DAVID SHOEBRIDGE [9.18 p.m.]: Yes.

The Hon. ADAM SEARLE (Leader of the Opposition) [9.18 p.m.]: The purpose of these Opposition amendments is to confer power on a WorkCover Independent Review Officer to conduct a merit review of a work capacity decision of an insurer, and to replace the current provisions under which only the WorkCover can undertake a merit review, with the review by the WorkCover Independent Review Office [WIRO], as it is now known as, being a procedural review only, which it is at present. The provisions go on to provide an appeal from the WIRO merit review, created by the amendments, to the Workers Compensation Commission.

We think that is important because a great injustice created by the 2012 reforms was a dramatic reduction in the scope of rights and support for injured workers but also, to the extent there were decisions to be made at crucial junctures—whether they were work capacity decisions or decisions about medicals or payments—injured workers were deprived of any meaningful capacity to navigate the system. Unless they could find some skilled volunteer or they possessed the necessary skills, they were confronted by lawyers or experts employed by insurance companies and others, against whom they were unevenly matched. So they were at a significant disadvantage. That was the apprehension when the legislation was debated in this Parliament in 2012. Unfortunately, it has proven to be the case, and it is a real problem.

The WorkCover Independent Review Office [WIRO] was given the power to conduct procedural reviews, but is limited simply to working out whether the proper process was followed. Only the WorkCover Authority had the power to conduct the merit review. That is fine insofar as it goes, but it is a bit unfair to ask WorkCover to fulfil that function because it is the executive agency—asking it, in its regulatory function, to act as the insurer. It is guarding the money and the public purse and at the same time it has to decide whether a process was followed properly, which could lead to payments or support being given to injured workers. It is getting the poacher to act as gamekeeper. It was unfair to the injured worker and unfair to the agency, so we propose creating this merit review function in the WIRO, which is embodied in Opposition amendments Nos 4 and 5.

The other amendments I have moved are necessary to remove bits of the current bill and to clean up the language, but that is the thrust of it. We think this is very important because once the WIRO has done its job there must ultimately be a decision of an impartial tribunal, which is the Workers Compensation Commission. It is composed of expert arbitrators appointed for their knowledge and presided over by a District Court judge—a person of great knowledge and learning in the field of workers compensation, Judge Keating. We think this is an important and necessary step. No great price tag should be attached to it; it is simply improving the process that is available. I urge members to give it close consideration.

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) [9.22 p.m.]: The Government opposes Opposition amendments Nos 2, 4, 5, 6, 7, 8, 16 and 19. The effect of this change would be to provide for merit reviews of work capacity decisions by the WorkCover Independent Review Office [WIRO] instead of a WorkCover merit review. The Government opposes the amendments. There is no need for these changes. Stakeholders report that they already find the multiple agencies and dispute resolution forums confusing.

The workers compensation legislation already provides for a comprehensive system for review of work capacity decisions, while the initial decision of an insurer is subject to internal review, then merit review by the WorkCover Authority and then procedural review by the WIRO. Expanding WIRO's functions is not required. Similarly, expanding the role of the Workers Compensation Commission as well as the role of the WIRO will simply make dispute resolution more complicated. Employers, workers, insurers and lawyers all want simplicity. A change to WIRO and the commission's existing functions would be confusing for no benefit. The Government opposes the savings and consequential amendments to make the proposed amendments retrospective.

Mr DAVID SHOEBRIDGE [9.23 p.m.]: The Greens support the Opposition's series of amendments for a number of very simple reasons. The first is, as the Government says, the scheme that it introduced in 2012 is already impossibly confusing for injured workers. Perhaps I am slightly over-egging the pudding—I think the Minister said it was "already confusing for injured workers". The scheme that was put in place in 2012 is nightmarish. Listing the steps, the initial decision is meant to already have an internal review by the insurance company before it is issued to the worker—so there is notionally already an internal review by the insurer before it is issued to the worker, most often terminating the worker's benefits. The worker then seeks another review inside the insurance company. I point out that every single step in the process established in 2012 is being paid for out of the scheme and is money that is going to the paper mill that was also generated in 2012. That money should be going to pay injured workers.

Putting that to one side, there is the initial decision by the insurer that already has an internal review in the insurance company. That is issued to the worker. Of course, the worker has no right to legal access under the 2012 reforms. Workers do the best they can with a complicated form to seek another internal review in the insurer. The internal review almost inevitably confirms the already internally reviewed decision by the insurance company and often is not persuaded by the case put by the unrepresented worker. If the second internal review in the scheme continues to dissatisfy the worker, as is most often the case, the worker then seeks a review not by anyone independent but an administrative review by WorkCover—and WorkCover owns all the money. Lo and behold, most of the time WorkCover does not want to give that money away to the injured worker. And that notionally—pretend—independent review from WorkCover is the end of the matter in terms of merit review.

So the entity that owns and has the money is making the notionally independent review of the already twice internally reviewed decision by the insurance company. Remember that the injured worker is not represented in any of this. If the worker is not satisfied with the notionally independent review by WorkCover of the two separately internally reviewed decisions by the insurance company, the injured worker, without the benefit of representation, can then seek a further review by the WorkCover Independent Review Office, but the worker of course needs to understand that WIRO's jurisdiction is limited to procedural matters only and it cannot review the merits of the decision.

The worker has to work out the argument that points out the problems with one of the 450 guidelines that WorkCover has put in place to regulate the way that the insurance company has done the two internal reviews and compare that with issues like the definition of "suitable employment"—which is found in the Workers Compensation Act, and also further particularised in another guideline set out by WorkCover—then interpret the medical evidence, then gather some evidence about reasonable employment and then say to WIRO, "Here's all my evidence, but remember you're only allowed to look at procedural matters." Then WIRO has to work out what is a procedural matter and what is a merit matter, and what is within its jurisdiction and what is not within its jurisdiction.

Then WIRO might decide that there was a procedural defect and send it back to the insurer to make a decision in accordance with proper procedure, which might then involve another internal review in the insurance company, which will potentially see the same decision made but with another box ticked and the worker put through this entire mill again. What a joke the current system is: enormously complex paper-driven procedures, for which every single dollar is paid by the scheme—except of course for the worker's time. The worker does that in their own time and obviously has no benefit of legal assistance. What a monster of a scheme was created in 2012.

The Opposition is trying to cut through at least some of that pointless, paper-driven, turgid complexity and say, "When you get to WIRO—one of the few genuinely independent parts of the system for work capacity assessment—let's not have that false, arbitrary, fruitless argument about what is a

procedural error and what is a merit error. Let WIRO make a decision on the merits." And that surely would be better. The Government says that will make it more complex. Of course it will not. It will get rid of the pointless distinction between "procedural" and "merit". It will also allow it to be finalised once and for all, there and then, by WIRO, and stop the further paper circus that will be generated by these work capacity decisions.

Question—That Opposition amendments Nos 2, 4 to 8, 16 and 19 [C2015-033D] be agreed to—
put.

The Committee divided.

Ayes, 16

Ms Barham	Mr Primrose	Ms Voltz
Mr Buckingham	Mr Searle	Mr Wong
Ms Cotsis	Mr Secord	
Dr Faruqi	Ms Sharpe	<i>Tellers,</i>
Mrs Houssos	Mr Shoebridge	Mr Mookhey
Mr Pearson	Mr Veitch	Mr Moselmane

Noes, 22

Mr Ajaka	Mr Gallacher	Mrs Mitchell
Mr Amato	Mr Gay	Reverend Nile
Mr Blair	Mr Green	Mr Pearce
Mr Borsak	Mr Harwin	Mrs Taylor
Mr Brown	Mr MacDonald	
Mr Clarke	Mrs Maclaren-Jones	<i>Tellers,</i>
Mr Colless	Mr Mallard	Mr Franklin
Mr Farlow	Mr Mason-Cox	Dr Phelps

Pair

Mr Donnelly Ms Cusack

Question resolved in the negative.

Opposition amendments Nos 2, 4 to 8, 16 and 19 [C2015-033D] negatived.

The CHAIR (The Hon. Trevor Khan): Does the Opposition intend to move amendment No. 3?

The Hon. ADAM SEARLE (Leader of the Opposition) [9.38 p.m.]: No.

The CHAIR (The Hon. Trevor Khan): Mr David Shoebridge might like to consider moving The Greens amendments Nos 3 and 4. If he were granted leave to do that, the Opposition might like to move Opposition amendment No. 12 at the same time.

Mr DAVID SHOEBRIDGE [9.38 p.m.], by leave: I move The Greens amendments Nos 3 and 4 on sheet C2015-042A in globo:

No. 3 **Referral of disputes to Commission**

Page 5, schedule 2. Insert after line 17:

[9] **Section 43 (3)**

Omit "The". Insert instead "Except as provided by section 44BG, the".

No. 4 Referral of disputes to Commission

Page 7, schedule 2 [14]. Insert after line 24:

44BG Referral of disputes to Commission

- (1) Despite anything to the contrary in section 43 or this Subdivision, a dispute relating to a decision about a worker's current work capacity that has been the subject of a review by the Independent Review Officer under this Subdivision may be referred to the Commission for determination after the review by the Independent Review Officer has been finally determined.
- (2) If the Commission determines the dispute in favour of the worker, and makes any order as to costs in the matter, the Commission is to order that costs follow the event.

The Hon. ADAM SEARLE (Leader of the Opposition) [9.39 p.m.]: I move Opposition amendment No. 12 on sheet C2015-033D:

No. 12 Merit review by IRO of work capacity decision of insurer

Page 7, schedule 2 [14]. Insert after line 24:

44BG Appeal against merit review of work capacity decision

- (1) A worker who is dissatisfied with a recommendation made by the Independent Review Officer under section 44BB (3A) (d) may appeal against the recommendation.
- (2) An appeal is to be made by application to the Registrar. The appeal is not to proceed unless the Registrar is satisfied that any applicable rules and regulations as to the making of an appeal have been complied with. The Registrar is not required to be satisfied as to the substance of the appeal.
- (3) An appeal must be made within 30 days after the worker receives notice of the recommendations appealed against, unless the Commission is satisfied that special circumstances justify an increase in the period for an appeal.
- (4) The appeal is to be by way of a new merit review of the original decision of the insurer.
- (5) Fresh evidence, or evidence in addition to or in substitution for the evidence on which the decision was made, may be given on the appeal.
- (6) An appeal under this section stays the operation of the decision appealed against pending the determination of the appeal. Sections 44BD and 44BE apply in respect of a decision of the Commission on an appeal under this section in the same way as they apply in respect of a review decision.
- (7) The Commission may confirm, vary or set aside the recommendation of the Independent Review Officer.
- (8) A decision of the Commission on an appeal under this section is binding on the insurer and the worker.
- (9) The provisions of Part 9 of Chapter 7 of the 1998 Act apply to an appeal under this section in the same way as they apply to and in respect of the hearing of other proceedings before the Commission.
- (10) Clause 2 of schedule 2 to the *Legal Profession Uniform Law Application Act 2014* applies to and in respect of the provision of legal services in connection with an appeal to the Commission under this section in the same way as it applies to and in respect of the provision of legal services in connection with a claim or defence of a claim for damages referred to in that section.

Note. Clause 2 of schedule 2 to the *Legal Profession Uniform Law Application Act 2014* prohibits a law practice from providing legal services in connection with a claim or defence unless a legal practitioner associate responsible for the provision of those services believes, on the basis of provable facts and a reasonably arguable view of the law, that the claim or defence has reasonable prospects of success.

The CHAIR (The Hon. Trevor Khan): The Greens amendment No 4 and Opposition amendment No. 12 are alternative proposals that deal with the same clause, so I intend to put The Greens amendment No. 4 followed by Opposition No. 12.

The Hon. ADAM SEARLE (Leader of the Opposition) [9.39 p.m.]: I seek leave to withdraw Opposition amendment No. 12. I am content with The Greens amendments Nos 3 and 4.

The CHAIR (The Hon. Trevor Khan): That makes it even easier.

Opposition amendment No. 12 [C2015-033D], by leave, withdrawn.

Mr DAVID SHOEBRIDGE [9.40 p.m.]: That does not change our position. I have moved The Greens amendments Nos 3 and 4. I note the Opposition was seeking to improve the status quo but, for reasons I will endeavour to explain, a review by the Workers Compensation Commission as proposed in The Greens amendments would be the fairest and best outcome for injured workers. Currently section 43 of the Workers Compensation Act provides this appalling process for how work capacity decisions are determined. I will not repeat them but there is a multi-step process for work capacity decisions—an internal review by the insurer, WorkCover and then the WorkCover Independent Review Office [WIRO]. Subsection (3) of section 43 of the Workers Compensation Act states:

The Commission does not have jurisdiction to determine any dispute about a work capacity decision of an insurer and is not to make a decision in respect of a dispute before the Commission that is inconsistent with a work capacity decision of an insurer.

In other words, the expert, independent Workers Compensation Commission—whose sole job and primary expertise is to determine disputes in relation to workers compensation benefits and entitlements—is excluded from making work capacity decisions. It is an irrational, mean-spirited and repugnant provision that came about in the 2012 reforms. It was primarily designed to ensure that work capacity decisions are basically in the hands of the executive. They can be decided firstly by the insurer and, if the insurer does not like it, they can be decided by WorkCover. There is no independence at all. The Leader of the Government might find it amusing that workers have no independent review. He might find it a funny that in 2012 workers lost the right to go to an independent court or commission to have their workers compensation decisions reviewed.

The Hon. Duncan Gay: Point of order: I find those comments totally repulsive because I have said no such thing. The member is taking comments made by two other people out of context and trying to allege improper motives. I ask that the honourable member be asked to withdraw those comments.

The CHAIR (The Hon. Trevor Khan): There is no point of order. It is recorded in *Hansard* and has been appropriately dealt with. I remind Mr David Shoebridge not to respond to members.

Mr DAVID SHOEBRIDGE: I note and accept the ruling of the Chair. The Government has not allowed injured workers to have an independent umpire. The Government is happy that injured workers have no independent umpire because in the absence of an independent umpire injured workers have to suck up what the insurer or WorkCover decides. Who owes the money? WorkCover owes the money and it does not want to give it to injured workers. That lack of independence in the system is a fundamental injustice to injured workers. The Greens amendment No. 3 would amend subsection (3) to say "except as provided by section 44BG, the commission does not have jurisdiction to determine any dispute about a work capacity decision". The Greens amendment No. 4 would insert a new provision into the Workers Compensation Act, section 44BG, regarding referral of disputes to the commission. New section 44BG (1) would say:

Despite anything to the contrary in section 43 or this Subdivision, a dispute relating to a decision about a worker's current work capacity that has been the subject of a review by the Independent Review Officer under this Subdivision may be referred to the Commission for determination after the review by the Independent Review Officer has been finally determined.

It would allow the independent expert body, the Workers Compensation Commission, to determine work capacity decisions about whether injured workers have a right to ongoing weekly compensation. The second thing new section 44BG would do can be found in subsection (2), which provides

If the Commission determines the dispute in favour of the worker, and makes any order as to costs in the matter, the Commission is to order that costs follow the event.

In other words, it gives it the discretion to order costs when the worker wins. If the worker wins, by definition, they should not have been put through the entire mill in finding their way to the Workers Compensation Commission and they should be entitled to reasonable legal costs. These amendments will put some independence and integrity into the scheme. They will give the independent expert tribunal full jurisdiction to deal with all issues relating to workers compensation, not only the small, rump set of issues that have been allowed after the appalling 2012 reforms. For those reasons I commend the two amendments to the House.

The CHAIR (The Hon. Trevor Khan): Order!

The Hon. ADAM SEARLE (Leader of the Opposition) [9.47 p.m.]: For the reasons outlined by Mr David Shoebridge, the Opposition will support The Greens amendments Nos 3 and 4. This will provide an expert independent tribunal to determine these disputes in a way that is not able to be done now. The amendments also will provide some additional support for injured workers who are trying to work their way through a difficult and unfriendly system, even with the proposed changes in this bill.

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) [9.47 p.m.]: The Government opposes The Greens amendments Nos 3 and 4. Currently the Workers Compensation Commission has no jurisdiction to determine matters that are the subject of a work capacity decision and no costs are recovered by a legal practitioner in the review of a work capacity decision. The bill proposes to allow for costs to be recovered for the review of a prescribed work capacity decision and provides for those costs to be prescribed in the regulation. There is no proposal in the bill to allow the Workers Compensation Commission to determine work capacity decisions.

The Government's proposal to remove the restriction on the access to legal costs for work capacity decisions allows for more consultation with stakeholders to get the right model in place. There is a risk that if legal costs go too far it will make the work capacity decision review process too adversarial or blow out costs. There is no proposal to extend the jurisdiction of the commission to review work capacity decisions. There is already in place a three-step review process. Adding an extra step in the review process will only increase disputation in the system and prolong the determination of claims.

The CHAIR (The Hon. Trevor Khan): Order! Before I put the question on the amendments it is appropriate that I refer to a ruling given on 4 September 2003 by former Deputy-President Fazio. That ruling, which is consistent with other rulings, states:

A member who feels they have been misrepresented should seek to make a personal explanation rather than to take a point of order.

In that case it was regarding offensive language. That is not what occurred on this occasion. Nevertheless, if a misrepresentation has occurred it should be dealt with not by point of order but by way of personal explanation or if we are in Committee it can be addressed by way of the member addressing the Chamber during the debate. I will not take the matter any further but if members of any party seek to engage in a dispute, as has occurred, then someone will end up being called to order. I will now put the question on the amendments.

Question—That The Greens amendments Nos 3 and 4 [C2015-042A] be agreed to—put.

The Committee divided.

Ayes, 16

Mr Buckingham	Mr Primrose	Ms Voltz
Ms Cotsis	Mr Searle	Mr Wong
Mrs Houssos	Mr Secord	
Mr Mookhey	Ms Sharpe	<i>Tellers,</i>
Mr Moselmane	Mr Shoebridge	Ms Barham
Mr Pearson	Mr Veitch	Dr Faruqi

Noes, 22

Mr Ajaka	Mr Farlow	Mrs Mitchell
Mr Amato	Mr Gallacher	Reverend Nile
Mr Blair	Mr Gay	Mr Pearce
Mr Borsak	Mr Green	Mrs Taylor
Mr Brown	Mr Harwin	
Mr Clarke	Mr MacDonald	<i>Tellers,</i>
Mr Colless	Mrs Maclaren-Jones	Mr Franklin
Ms Cusack	Mr Mason-Cox	Dr Phelps

Pair

Mr Donnelly

Mr Mallard

Question resolved in the negative.

The Greens amendments Nos 3 and 4 [C2015-042A] negatived.

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council [10.00 p.m.]: Chair, you indicated that if a member had any concerns about comments that have been made he or she should seek to make a personal explanation.

The CHAIR (The Hon. Trevor Khan): Order! It is an explanation under Standing Order 89, which does not need leave in these circumstances.

The Hon. DUNCAN GAY: By way of personal explanation, I took offence at the comments made by Mr David Shoebridge earlier. In his comments he indicated that I was laughing at the disabilities of injured workers. He knew, and every other member knew, that his colleagues and I were laughing about another matter. We were laughing but I certainly was not laughing at injured workers. I found his comments offensive and I wish that he had not made them. I hope he is gentleman enough to withdraw them, because they are not true.

The Hon. ADAM SEARLE (Leader of the Opposition) [10.00 p.m.], by leave: I move Opposition amendments Nos 9, 10, 11, 18 and 20 on sheet C2015-033D in globo:

No. 9 Restoration of Commission's power to order payment of costs

Page 7, schedule 2 [14], proposed section 44BF (1), line 16. Omit "A legal practitioner is not entitled to be paid or recover any". Insert instead "Despite section 343 of the 1998 Act, a legal practitioner may be paid or recover an".

No. 10 Restoration of Commission's power to order payment of costs

Page 7, schedule 2 [14], proposed section 44BF (1), line 17. Omit "if". Insert instead "unless".

No. 11 Restoration of Commission's power to order payment of costs

Page 7, schedule 2 [14], proposed section 44BF (2), line 21. Omit "section 341". Insert instead "sections 341 and 343".

No. 18 Restoration of Commission's power to order payment of costs

Page 18, schedule 6. Insert after line 24:

14 Costs in proceedings

Section 341 (as substituted by the 2015 amending Act) and sections 342, 343 and 345 (as re-enacted by the 2015 amending Act) of the 1998 Act extend to proceedings pending in the Commission before the commencement of the substituted or re-enacted section but not finally determined before that commencement.

No. 20 Restoration of Commission's power to order payment of costs

Page 18. Insert after line 38:

**Schedule 7 Amendment of Workplace Injury Management and Workers Compensation Act 1998
No. 86—legal costs**

[1] Sections 341–343

Omit section 341. Insert instead:

341 Costs to be determined by Commission

- (1) Costs to which this Division applies are in the discretion of the Commission.
- (2) The Commission has full power to determine by whom, to whom and to what extent costs are to be paid.
- (3) The Commission may order costs to be assessed on the basis set out in the relevant law or on an indemnity basis.
- (4) The Commission may not order the payment of costs by a claimant unless the Commission is satisfied that the claim was frivolous or vexatious, fraudulent or made without proper justification.

- (5) If the Commission is satisfied that a part only of a claim was frivolous or vexatious, fraudulent or made without proper justification, the Commission may order the claimant to pay the costs relating to that part of the claim.
- (6) Any party to a claim may apply to the Commission for an award of costs.
- (7) In this section:

relevant law means:

- (a) the legal costs legislation (as defined in section 3A of the *Legal Profession Uniform Law Application Act 2014*), or
- (b) any relevant regulations under Division 4 of this Part.

342 Costs unreasonably incurred

- (1) If the Commission is satisfied that any party's costs on a claim have been unreasonably incurred, the Commission is to order that those costs are not to be paid by any other party to the claim.
- (2) A costs agreement made in accordance with the legal costs legislation (as defined in section 3A of the *Legal Profession Uniform Law Application Act 2014*) is of no effect to the extent to which it relates to costs the subject of an order in force under subsection (1).
- (3) Costs incurred by a party to a claim are considered to have been unreasonably incurred for the purposes of this section only if they were incurred by the party:
 - (a) after a reasonable offer of settlement of the claim was made to the party, or
 - (b) after the party has failed without reasonable excuse to comply with a written request from another party to the claim to provide that other party with particulars (including any necessary medical report) sufficient to enable that other party to properly consider the claim for the purpose of making an offer of settlement, or
 - (c) after the party has unreasonably failed to participate in conciliation of a dispute with which the claim is concerned and the Commission is of the opinion that the failure has resulted in unnecessary litigation, or
 - (d) in connection with an unsuccessful application by the party to admit further evidence in respect of matters of which a medical assessment certificate of an approved medical specialist that has been admitted in evidence in proceedings is evidence (whether or not conclusive evidence) and the Commission is of the opinion that the application was frivolous or vexatious, or
 - (e) in connection with any issue raised in relation to a claim in respect of which there were, when the issue was raised, no grounds for a reasonable belief that the issue would be determined in favour of the party by whom it was raised.
- (4) A legal practitioner representing a party to proceedings before the Commission, or providing legal services to the party's insurer, is not entitled to recover from the party or insurer, as the case may be, any costs that the Commission has ordered are to be treated as unreasonably incurred.
- (5) The Commission may by order exempt any costs or a proportion of any costs from the operation of this section if of the opinion that it would be unjust not to do so because the legal practitioner concerned made all reasonable efforts to avoid unnecessary litigation in the proceedings or for any other reason should not be held responsible for the incurring of the costs concerned.

343 Restrictions on recovery of solicitor/client costs

- (1) The legal representative or agent of a person in respect of a claim made or to be made by the person:
 - (a) is not entitled to recover from the person any costs in respect of the claim unless those costs are awarded by the Commission, and
 - (b) is not entitled to claim a lien in respect of those costs on, or deduct those costs from, the sum awarded, ordered or agreed as compensation unless those costs are awarded by the Commission.

- (2) Any such award of costs may be made on the application either of the person or of the legal representative or agent concerned.
- (3) This section prevails to the extent of any inconsistency with the legal costs legislation (as defined in section 3A of the *Legal Profession Uniform Law Application Act 2014*).
- (4) A person must not:
 - (a) claim a lien that the person is not entitled to claim because of this section, or
 - (b) deduct costs from a sum awarded, ordered or agreed as compensation that the person is not entitled to deduct because of this section.

Maximum penalty: 50 penalty units.
- (5) A person who has paid an amount in respect of costs to another person that the other person was not entitled to recover because of this section is entitled to recover the amount paid as a debt in a court of competent jurisdiction.

[2] Section 345

Insert after section 344:

345 Costs penalties where appeal is unsuccessful

- (1) On an appeal from the Commission constituted by an Arbitrator to the Commission constituted by a Presidential member:
 - (a) if the appellant is unsuccessful on the appeal, the Commission is to order that the appellant's costs on the appeal are not to be paid by any other party to the appeal, and
 - (b) if the appellant is an insurer (other than a licensed insurer that maintains a statutory fund under the 1987 Act) and is unsuccessful on the appeal, the Commission may order the insurer to pay to the Authority for payment into the WorkCover Authority Fund an administration fee of \$1,000 or such other amount as may be prescribed by the regulations.
- (2) A costs agreement made in accordance with the legal costs legislation (as defined in section 3A of the *Legal Profession Uniform Law Application Act 2014*) is of no effect to the extent to which it relates to costs the subject of an order in force under subsection (1) (a).
- (3) If an appeal concerns lump sum compensation, weekly payments of compensation or medical expenses compensation, the appellant is considered to be unsuccessful on the appeal unless the decision on appeal results in a change in favour of the appellant in the amount awarded or ordered to be paid in the decision appealed against of at least \$5,000 (or such other amount as may be prescribed by the regulations) and at least 20 per cent of the amount awarded or ordered to be paid.
- (4) An administration fee that an insurer is ordered to pay is recoverable as a debt due to the Authority.
- (5) The Registrar is to notify the Authority of an order to an insurer under this section to pay an administration fee.

This cluster of amendments concerns the restoration of the power to grant legal costs. In 2012 provisions were inserted into the legislation that provided that each party was to bear its own costs in a claim or in relation to a claim for compensation. The Workers Compensation Commission has no power to order the payment of costs or to make other determinations about costs. The provisions in force before 2012 would be restored by this group of amendments. They introduce provisions that include that the commission has full power to determine by whom, to whom and to what extent costs are to be paid; that the commission may not order the payment of costs by a claimant unless the commission is satisfied that the claim was frivolous, vexatious, fraudulent or made without proper justification.

If the commission is satisfied that any party's costs on a claim have been unreasonably incurred, the commission is to order that those costs are not to be paid by any other party to the claim and that the legal representative or agent of the person in respect of the claim made or to be made by that person is not entitled to recover from the person any costs in respect of the claim unless those costs are awarded by the commission, or to claim a lien in respect of those costs, or deduct those costs from the sum awarded, ordered or agreed as compensation unless those costs are awarded by the commission. Essentially, we seek to restore the pre-2012 reform position.

Previously, one of the great social justice measures in our system of workers compensation was that when a worker brought a claim and that claim was successful, the legal costs incurred in having that claim upheld would not be paid for by the worker out of his or her pocket; that it would not come out of the sum awarded to them by way of compensation payments or medical payments but would be borne by the unsuccessful insurer—essentially, in this case, the scheme.

With respect to unsuccessful claims there was not only no payment to the lawyer but also lawyers acting for injured workers who were not successful could not then turn around and charge the injured workers. It was a very nuanced and balanced system that ensured that injured workers had access to high-quality legal representations and advocacy without risk to their own purse so that they did not have to make huge judgements about whether they sought redress for their injuries, without risking their home and the financial security of their families. As I said, it was a great social justice measure that has been abolished by the current legislation.

The current legislation goes further in creating an additional perversity by preventing workers from engaging lawyers at their own expense if they could afford to in connection with work capacity testing. We seek to undo that and we make no apologies for doing so. We do not seek to advantage the legal profession because, frankly, it is able to adapt, to move on and to find other fiats. However, the injured workers are now relying on skilled volunteers, community health centres, injured worker advocacy groups or those lawyers who have the time and the inclination to do such advocacy for free.

The insurers—the gatekeepers of the money—are using lawyers. They are using skilled professionals in these processes but the injured worker has nobody. It is good to see that all members in this place are giving full and earnest consideration to these matters. It is important that we all pay close attention to these matters as we are dealing with people's livelihoods. As these are important matters I urge all members to give earnest consideration to restoring the pre-2012 regime in relation to supporting injured workers so that they have access to advocacy to get them through the system.

Mr DAVID SHOEBRIDGE [10.05 p.m.]: The Greens support these Opposition amendments. One of the hallmarks of a just workers compensation system is to put in place mechanisms that give individual injured workers some kind of level playing field when they are dealing with large insurers. The only mechanism that has been found to work around the globe is to allow the injured worker to have ready access to a competent lawyer who can represent their claims. Only one jurisdiction on the planet currently prevents injured workers from getting access to their lawyers, that is, the New South Wales compensation system. The Opposition's amendments would fix that international injustice—it is worse than an anomaly—in our workers compensation scheme.

It goes without saying that insurance companies have the resources to get an in-house lawyer who is readily available to determine all these work capacity matters. In fact, that is what they have done. If they cannot seek an external lawyer they have a lawyer on their payroll and that lawyer makes decisions on work capacity issues. Rather than having an external lawyer because of these prohibitions, they bring the lawyers inside and have them on the payroll. Workers do not have this access and they need access to competent lawyers. These costs have always been regulated and these provisions are essential to having a fair workers compensation scheme. In relation to the earlier fracas with the Leader of the House—

The CHAIR (The Hon. Trevor Khan): Order! Mr David Shoebridge will address the amendments. He is not entitled to make a personal explanation.

Mr DAVID SHOEBRIDGE: The Leader of the Government asked me whether I would withdraw my remarks. I accept what the Leader of the Government said. I must have misheard what he said or misinterpreted what he did. He stated on the record that that is what I did. I accept that he does not lie and I accept what he said. I obviously misheard what he said or misinterpreted what he did. To that extent, I withdraw my statement. We should try to have a civilised discussion on these matters.

The CHAIR (The Hon. Trevor Khan): I apologise to Mr David Shoebridge. I did not want the temperature going up in the Chamber any further.

Mr DAVID SHOEBRIDGE: I am glad that I was able to withdraw my earlier comments. I support these amendments.

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) [10.08 p.m.]: The Government opposes Opposition amendments Nos 9, 10, 11, 18 and 20, which would have the

effect of restoring the ability of the Workers Compensation Commission to order payment of legal costs. The Government is already lifting a ban on legal costs in legislation for review of work capacity decisions. It is fair to provide workers with legal advice for the review of work capacity decisions, especially when insurers get access to legal advice. We will now consult stakeholders, including the legal fraternity and other key stakeholders, to get this right.

It is important that we do not extend legal costs too far because we do not want to make the scheme too adversarial or blow out the costs. The scheme actuary has estimated costs of up to \$1 billion to the scheme as a result of unregulated legal support and related behavioural changes. The Government has introduced the Independent Legal Aid Assistance and Review Service to support injured workers in disputes with insurers heard by the Workers Compensation Commission. The savings and transitional amendments to the principal changes to the limit on medical expenses are retrospective to pending but not determined matters. The changes are not supported.

Question—That Opposition amendments Nos 9, 10, 11, 18 and 20 [C2015-033D] be agreed to—
put.

The Committee divided.

Ayes, 16

Ms Barham	Mr Pearson	Mr Veitch
Mr Buckingham	Mr Primrose	Ms Voltz
Ms Cotsis	Mr Searle	
Dr Faruqi	Mr Secord	<i>Tellers,</i>
Mrs Houssos	Ms Sharpe	Mr Moselmane
Mr Mookhey	Mr Shoebridge	Mr Wong

Noes, 22

Mr Ajaka	Mr Gallacher	Mrs Mitchell
Mr Amato	Mr Gay	Reverend Nile
Mr Blair	Mr Green	Mr Pearce
Mr Borsak	Mr Harwin	Mrs Taylor
Mr Brown	Mr MacDonald	
Mr Clarke	Mrs Maclaren-Jones	<i>Tellers,</i>
Mr Colless	Mr Mallard	Mr Franklin
Mr Farlow	Mr Mason-Cox	Dr Phelps

Pair

Mr Donnelly Ms Cusack

Question resolved in the negative.

Opposition amendments Nos 9, 10, 11, 18 and 20 [C2015-033D] negatived.

The CHAIR (The Hon. Trevor Khan): The Greens amendment No. 5 and Opposition amendment No. 13 are identical. The Greens amendment was received first so it is appropriate that Mr David Shoebridge proceed.

Mr DAVID SHOEBRIDGE [10.18 p.m.]: I move The Greens amendment No. 5 on sheet 2015-042A:

No. 5 **Removal of limitation on compensation for medical and related expenses**

Pages 9 and 10, schedule 3 [1]–[4], line 3 on page 9 to line 31 on page 10. Omit all words on those lines. Insert instead:

[1] **Section 59A Limit on payment of compensation**

Omit the section.

In moving this amendment I note that the Opposition, in its lengthier list of amendments, had exactly the same amendment. It is no surprise that we both seek to move exactly the same amendment because what the amendment does is critical to undoing the serious damage that was done as a result of the 2012 reforms, that is, to remove from the statute book section 59A of the Workers Compensation Act in its entirety.

Section 59A currently provides that almost all injured workers are entitled to the recovery of reasonable and necessary medical expenses. That entitlement ends 12 months after the injury, if the worker has not had any time off work and has not received any weekly payments; or, if the injured worker has received weekly payments, the entitlement expires 12 months after their last weekly payment. That invidious little section denies injured workers a right to the reasonable and necessary medical treatment they need to recover from or deal with the consequences of their injury. That provision has resulted in serious injustices throughout the State. I will give one example of not only how the provision is unjust but also how irrational it is to have such a provision in the workers compensation scheme.

My office has been contacted by a number of injured workers who suffered a physical injury in the workplace, perhaps a back injury or another significant physical injury. They had a period off work and during that period they received medical treatment—maybe surgery or some other medical care—and then managed to return to work. However, in order to stay at work and continue to work full time they sometimes need access to anti-inflammatory medication or physiotherapy. In some cases, they need access to both treatments if, after a full week's work, their injury flares up. They may need to see a physiotherapist, get a massage or take some anti-inflammatories on the weekend so that they can return to work on the Monday. Surely we want a workers compensation system that enables workers to access medical treatments so they can continue working.

Under the current system, if an injured worker has had time off work, received medical treatment, returned to work and continues to work full-time hours for 12 months or more, even if they continue to receive medical treatment, physiotherapy or medication during the entire period, their entitlement to medical expenses is terminated. They cannot get the physiotherapy and/or the anti-inflammatories they need to stay at work. It is a bizarre system. If a worker's injury flares up after their medical benefits have been withdrawn and they go back to work, the cap on weekly expenses means that they cannot obtain further treatment. So they go back on the scrap heap. The continuing provision of reasonable medical expenses would have enabled them to continue to be a productive member of the community while dealing with their injury and to continue working.

There are other instances where section 59A, the cap, is unjust. I accept that the amendments will increase the period for benefits from 12 months to two years for the majority of injured workers, to five years for a minority of workers and to life for a smaller minority of workers. I accept that the bill contains some minor improvements. Although I refer to them as "minor improvements" they will have a real impact on thousands of injured workers. In what is otherwise a strong critique of the Government's 2012 reforms, I will say this. These amendments relating to medical expenses will make a real difference to thousands of workers, and I am glad to see them going through the Parliament. However, there is no reason to cap the benefits at two years for most workers or five years for a minority of seriously injured workers.

Under the amended thresholds, workers with whole-person impairment greater than 10 per cent, that is, 11 per cent to 20 per cent, will be entitled to medical expenses for a maximum of five years. If the whole-person impairment is greater than 20 per cent—21 per cent or greater—they will be entitled to continuing medical expenses, as they were before the 2012 reforms. Imposing arbitrary thresholds creates a series of other dysfunctions that I do not think the Government has considered. I will give an example. A worker may have a serious knee injury but it is not assessed until two years after the initial injury and the whole-person impairment is 10 per cent. The experts agree that the worker will need ongoing surgery.

The insurer's orthopaedic surgeon and the worker's orthopaedic surgeon agree that he will need significant medical intervention on the knee in about two years time because, as a result of the injury, the cartilage will continue to degrade, the knee will be ground down to nothing and the worker will need an arthroscopy or knee replacement in due course. Once the arthroscopy or knee replacement is done, the worker's whole-person impairment will almost certainly go from 10 per cent to 11 per cent or greater and he will then be entitled to medical expenses that would enable him to have the arthroscopy or the knee replacement. However, if the worker does not have access to medical expenses he cannot get the surgery, so he cannot prove that he has crossed the threshold. The worker is caught in this terrible catch-22 position as a result of this arbitrary threshold. I have not heard the Government explain how workers get out of that catch-22.

The Hon. Adam Searle: They're not supposed to.

Mr DAVID SHOEBRIDGE: If the worker cannot afford the surgery he does not have it and he does not go into the higher category because he cannot prove his whole-person impairment. I ask the Minister: What happens to those workers? Are they caught in some sort of Kafkaesque bureaucracy from which they cannot get out and they cannot obtain reasonable and necessary medical treatment? I think that is the case. That is only one of many highlights of the dysfunction in the system. As I said, whole-person impairment is not a valid way of determining workers' access to compensation.

The American Medical Association's impairment guides 3, 4, 5 and 6 state clearly and boldly in the preamble that whole-person impairment assessments should not be used to determine rights to compensation. Yet for 15 years the whole-person impairment assessment has been a fundamental criteria, a gateway to workers accessing workers compensation. It does not work for the obvious reasons that a worker's needs for medical treatment, as in this case, cannot have any connection to their whole-person impairment. If a worker has a whole-person impairment of 8 per cent and he needs ongoing medical treatment, he should be provided it under the workers compensation scheme. Whether the whole-person impairment is 8 per cent, 12 per cent or 22 per cent, that should not determine whether an injured worker has access to medical treatment.

Another invidious part of section 59A was pointed out by the WorkCover Independent Review Office [WIRO] in a communication to us. Under the current scheme, often injured workers, as they are approaching the end of the 12 months when their entitlement to medical expenses will expire, see their doctor and their doctor says, "You need further treatment." The worker may need an arthroscopy on the knee, or surgery on the rotator cuff in the shoulder, or a laparoscopy on the spine at L5-L6 or L4-L5 in order to deal with a nasty referred pain down the left leg.

The injured worker says, "When can I have the surgery?" The doctor says, "I can book you in in six weeks time. That's the first availability." The worker says, "No. My entitlement to medical expenses expires in two weeks. I hit the 12 months threshold in two weeks", or under this reform scheme "I hit the two-year threshold in two weeks." Under the scheme and section 59A, unless the worker has surgery and incurs the expense during that period he does not have any entitlement to recover the expense. Even if the doctors agree that surgery is required within the 12 or 24 months, because surgery is not instantaneous the worker will lose his benefits or entitlements. In another situation an orthopaedic surgeon may say, "In six months time you'll need this surgery." The worker says, "In six months time I will be past the cap. I'll be past the period in which I am entitled to medical expenses."

In such an appalling situation the worker would say to the surgeon, "Should I have the surgery now even though I don't need it now?" Even though the best time to have the surgery is in six months, the injured worker cannot have it then. In six months when the surgery should be performed, the cost of surgery will not be covered by workers compensation and the worker will have to go on the Medicare waiting list. As it is not priority treatment under Medicare, the worker will have to wait five years. Decisions are being made that are not in the worker's best interests because of the dysfunction in section 59A.

The cost to remove section 59A is not exorbitant. WorkCover's actuary did an analysis for the Standing Committee on Law and Justice and found at the end of last year the cost of returning all past medical benefits, that is, every injured worker's medical benefits that have been lost since 2012, is a maximum \$1.7 billion and a minimum \$1.085 billion. The ongoing annual cost to the scheme of returning every single medical benefit that has been lost is somewhere between \$84 million and \$282 million per annum. The scheme can afford \$282 million because it is heading towards a \$6 billion surplus. If the scheme can afford it and it is just, that should be done. For those reasons, I commend the amendment to the Committee.

The Hon. ADAM SEARLE (Leader of the Opposition) [10.32 p.m.]: The Opposition wholeheartedly supports The Greens amendment No. 5 for the reasons outlined by Mr David Shoebridge. One of the perversities of this time limit is, as Mr David Shoebridge identified, the challenge to provide an injured worker the medical treatment necessary within that time limit. That is particularly problematic if the insurer challenges the treatment sought and much of the time limit is taken up with disputation. Further, it may create a situation where medical practitioners, mindful of the time limit, undertake treatment or surgery prematurely in order to ensure that the treatment is provided in a timely way.

The treatment may not be at a time that would ensure maximum medical improvement because decisions are being made on or distorted by the time limits imposed by the Parliament and not in accordance with the medical need of the injured worker. Not only as a matter of fairness but also fundamentally as a matter

of dignity for the injured workers, there should be no time limit. From 1926 up until 2012, there were no time limits on the provision of medical benefits and support. The scheme had its ups and downs but it could always bear the cost of medical treatment. Even if the scheme provides for no other areas of improvement, the necessary medical treatment and support should be provided by the scheme to injured workers. In the context of this bill, which represents a small improvement, even if none of the proposed amendments is agreed to by this Chamber, the Opposition urges that the time limit for medical treatment be scrapped simply for reasons of dignity.

I foreshadow that I will only move Opposition amendment No. 17, which proposes a retrospective change in relation to medical, hospital and rehabilitation expenses, if this amendment is successful. I apprehend that because of the way in which Opposition amendment No. 17 is worded, should this amendment not be carried it would not be effective to move Opposition amendment No. 17. I urge the Committee to support The Greens amendment No. 5.

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) [10.35 p.m.]: The Government opposes both The Greens amendment No. 5 and Opposition amendment No. 13 and I will give the reasons in one address. The effect of the amendments would be to reinstate medical benefits for life. The independent scheme actuary, PricewaterhouseCoopers, has advised that reinstating medical benefits to all injured workers for life will cost the scheme more than \$2 billion and would automatically plunge it back into deficit. That is a different cost to the one quoted by Mr David Shoebridge, which came out of the Standing Committee on Law and Justice inquiry. His figure does not take into account the fall in interest rates that we are currently experiencing. The figure is now over \$2 billion.

The Government is reinstating medicals for life for injured workers with high needs, that is, those with a greater than 20 per cent permanent impairment. Certain medicals such as prostheses, hearing aids, artificial aids, and home and vehicle modifications also will be available for life for all workers. As has been acknowledged, the Government is also extending medical benefits to two years after weekly payments cease for injured workers with a level of permanent impairment of 10 per cent or less and five years after weekly payments cease for workers with a level of permanent impairment of between 11 and 20 per cent. This recognises that severe cases require ongoing treatment.

Both Mr David Shoebridge and the Hon. Adam Searle raised the issue that surgery may be required by an injured worker after the cap has expired. Under the Government's changes, subsequent surgery falling outside the extended medical caps will be covered. That should address the issue of people jumping in and undergoing procedures too early. The Government opposes the consequential amendments that would make the proposed amendments to remove the time limits on medical expenses retrospective.

Mr DAVID SHOEBRIDGE [10.38 p.m.]: The Minister boldly asserted that the cost of restoring these benefits would be \$2 billion, the great bulk of which almost certainly would deal with the retrospectivity factor, that is, the accumulation of benefits from 2012 to date. The actuary—the same actuary that gave the Government the current figures—gave a range of costs. Like all good spiritual exercises, actuaries are not precise and they provide a range. I am sure that is most frustrating for those involved in the scheme. Actuaries do not give precise figures because of the uncertainty packed into their models. The range given by the actuary at the end of last year was between \$1.085 billion and \$1.7 billion.

But the ongoing cost was only in the range of \$84 million to \$282 million. If that is ratcheted forward to the highest possible estimate that the actuary gave at the end of last year and we add on another year's retrospective payments, that is how I assume the Government got to the \$2 billion. The Government is taking the highest possible cost, but it is not putting in the debate the annual cost—and that is unfair. The Government has not shared the full actuarial analysis and I invite it to table this document. However, I assume for the reasons I have given, the annual cost of the scheme restoring the full suite of benefits would still be in the range put by the actuary to the Standing Committee on Law and Justice—that is, somewhere between \$84 million and \$282 million. That is fundamentally affordable in the scheme of things.

If we are fighting over the one-off cost of retrospectivity, let us have an argument. If the Government's argument is that the retrospectivity would be unaffordable—and I think that is wrong; I think it is affordable because the scheme is on track for a substantial surplus—can the Government address why we cannot afford it on an annual basis going forward? Why should we not be saying that for every injured worker from today we will be restoring at least medical benefits? That is obviously affordable. It would not account for the \$2 billion figure used by the Minister; it would be a much lower figure and therefore much more affordable. Let us have a

discussion about that. I would be more than happy to unpackage The Greens amendments Nos 5 and 6 and move them separately so we can deal with them separately. Let us have a full, frank and honest debate about the affordability of the scheme. I am quite certain we can afford to restore medical benefits for all injured workers.

Question—That The Greens amendment No. 5 [C2015-042A] be agreed to—put.

The Committee divided.

Ayes, 16

Mr Buckingham	Mr Primrose	Ms Voltz
Ms Cotsis	Mr Searle	Mr Wong
Mrs Houssos	Mr Secord	
Mr Mookhey	Ms Sharpe	<i>Tellers,</i>
Mr Moselmane	Mr Shoebridge	Ms Barham
Mr Pearson	Mr Veitch	Dr Faruqi

Noes, 22

Mr Ajaka	Mr Gallacher	Mrs Mitchell
Mr Amato	Mr Gay	Reverend Nile
Mr Blair	Mr Green	Mr Pearce
Mr Borsak	Mr Harwin	Mrs Taylor
Mr Brown	Mr MacDonald	
Mr Clarke	Mrs Maclaren-Jones	<i>Tellers,</i>
Mr Colless	Mr Mallard	Mr Franklin
Mr Farlow	Mr Mason-Cox	Dr Phelps

Pair

Mr Donnelly

Ms Cusack

Question resolved in the negative.

The Greens amendment No. 5 [C2015-042A] negatived.

The Hon. ADAM SEARLE (Leader of the Opposition) [10.49 p.m.], by leave: I move Opposition amendments Nos 14 and 15 on sheet C2015-033D in globo:

No. 14 Restoration of certain journey claims

Page 15. Insert after line 7:

Schedule 6 Amendment of Workers Compensation Act 1987 No. 70—journey claims

Section 10 Journey claims

Omit section 10 (3A).

No. 15 Restoration of certain journey claims

Page 17, schedule 6. Insert after line 3:

5 Journey claims

- (1) Section 10 (3A) of the 1987 Act is taken never to have been enacted and any compensation that would have been payable but for that subsection is accordingly still payable.
- (2) For that purpose, in relation to a personal injury received by a worker on any journey that occurred before the commencement of the 2015 amending Act for which compensation was not payable when the journey occurred:
 - (a) the time limit in section 151D of the 1987 Act is taken to be 3 years after the date of the injury, or 6 months after the date of commencement of the 2015 amending Act, whichever is the later, and

- (b) the time for giving notice under section 254 of the 1998 Act is taken to be within 30 days after the date of commencement of the 2015 amending Act, and
 - (c) the time limits in sections 261 and 262 of the 1998 Act are taken to be 3 years after the date of the injury, or 6 months after the date of commencement of the 2015 amending Act, whichever is the later.
- (3) Any worker who made a claim for compensation before the commencement of this Act that was rejected only because of the operation of section 10 (3A) of the 1987 Act may make a further claim within the time limit specified in this clause.

The amendments omit provisions inserted in 2012 that prohibit the payment of compensation for journey claims except for journeys to or from the worker's place of abode where there is a real and substantial connection between the employment and the accident or incident out of which the personal injury arose. The amendments would create a situation in which a personal injury suffered by a worker on any journey between the worker's place of abode and place of employment to which section 10 applies will be treated as an injury arising out of or in the course of employment with compensation payable accordingly.

The Greiner Government abolished journey claims, which were one of the hallmarks of the workers compensation scheme. State Labor promised in 1995 that if re-elected it would restore journey claims, and it did. When we were elected to office we brought back journey claims because the cumulative conditions of work can have a bearing on workers' safe journeys home from work. I gave an example of that in my contribution to the second reading debate. Journey claims also ensure that when workers step outside their front door to go to work and when they return they are protected should they come to injury.

The removal of the traditional journey claim provisions and the current restriction has effectively denied compensation to workers who are injured during the journey to or from work. The matter was canvassed significantly during the committee process that preceded the 2012 reforms. We heard evidence of nurses working double shifts and construction workers coming off shifts who were driving home while fatigued. Of course, if a person has a car accident while fatigued the chances are that person will be found at fault to some degree. That prevents claims being made under the Motor Accidents Scheme.

The current provisions do a substantial injustice. Many workers who have accidents while returning home after a long day at work are no longer covered. If they are fatally injured—as in the case I referred to in the second reading debate—their families will be needlessly exposed to economic and social distress because they will receive very little, if any, money. As I indicated, I think that only one successful claim has been made under the existing provision.

Journey claims used to be made under the workers compensation system and when workers could be identified as being at fault an interaction with the Motor Accidents Scheme reduced the cost. At the time of the 2012 reforms the estimated annual cost was about \$93 million, which is relatively small. The Minister cited a significantly inflated cost in the other place and said in his contribution that it would be something like \$285 million a year going forward. I have not seen the actuarial assessments on which that is based. Perhaps if we had more time to deliberate on this legislation rather than the Government slam dunking it through both Chambers in two days we might be able to get to the bottom of that. Nevertheless, we earnestly press the restoration of journey claims that should be the hallmark of any civilised system looking after injured workers.

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) [10.54 p.m.]: The Government opposes Opposition amendments Nos 14 and 15.

The CHAIR (The Hon. Trevor Khan): Order! There is too much audible conversation in the Chamber and the President's gallery. Members wishing to have private conversations should do so outside the Chamber.

The Hon. NIALL BLAIR: The amendments would remove the current requirement for journey claims that there be a real and substantial connection between the worker's employment and the accident or incident out of which the injury arose. As I said, the Government opposes the amendments. The Leader of the Opposition said that to his knowledge only one journey claim has been made since the 2012 amendments. I am advised that that is not correct. Injured workers can and do make journey claims still. In fact, the scheme actuary has advised that 518 claims have been made since 2012.

The changes to journey claims in 2012 brought New South Wales into line with other jurisdictions. The removal of journey claims that are not work related more closely aligns with the intention of the workers

compensation legislation, which is to provide income support, medical assistance and rehabilitation support for workers injured during the course of their employment. Workers who are injured in motor vehicle accidents while travelling between their workplace and home when there is no real and substantial connection to work may be entitled to compensation under the compulsory third party insurance scheme. The Government opposes the savings and consequential amendments to make the proposed amendments to journey claims retrospective.

Mr DAVID SHOEBRIDGE [10.56 p.m.]: We should be clear that this is an ideological debate about whether or not workers compensation should cover journey claims. For decades most New South Wales employers have railed against journey claims. They say they can control safety at work but not to and from work, and therefore they do not want to pay journey claims. On the other side of the debate unions, employees and workers as a general rule have said that going to and from work is a necessary part of working and therefore they should be covered by workers compensation on their journeys. That is the ideological fault line.

The Greiner Government sided with the ideological line of employers and removed journey claims. Journey claims were part of workers compensation when a Labor government introduced the scheme in 1926 and at the demise of the Fahey Government journey claims were reinstated. This is an ideological discussion. It is not really about affordability in the scheme—the scheme can afford it. It is about what people think is fair or otherwise in a workers compensation scheme. The Greens fundamentally believe that workers compensation should cover journey claims. A small and perhaps growing minority of people can work from home, but travelling to and from work is a necessary and incidental part of work for every other worker. Workers compensation should cover those journeys. The scheme can afford to do so. We support the Opposition amendments.

The Hon. ADAM SEARLE (Leader of the Opposition) [10.58 p.m.]: I seek to clarify that the claims the Minister referred to are claims that have been paid as opposed to merely made. I am not cavilling with his statement but, as I said, I am only aware of one case. I am glad to hear that there have been others. However, we know that because of the extreme narrowing in the current provisions a number of unions have had to engineer top-up journey claim insurance through their superannuation funds to cover their members.

Mr David Shoebridge: It has been quite good for union recruiting.

The Hon. ADAM SEARLE: It may well have been. The point is that it is a relatively expensive form of insurance. However, it is one that unions have deemed necessary where they have been able to get it for their members. One assumes that this is not something they have done lightly or unnecessarily. I ask the Minister to clarify that those 500-odd claims since 2012 are paid claims as opposed to claims merely lodged. It would be interesting to see how that compares with journey claims paid before the narrowing of the provision. What Mr David Shoebridge said is correct: This is not about affordability; it is simply about whether workers should be covered door to door or only when they are under the watchful eye of their employer. The one case I referred to—which I think is the only reported case—shows the extreme level of fatigue and exposure to cumulative work that was necessary to achieve that connection. It is a very high threshold; in fact, it is too high. Journey claims should be restored in this State.

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) [11.01 p.m.]: I advise the Leader of the Opposition that the number I quoted is the number of claims paid.

The Hon. Adam Searle: Thank you.

Question—That Opposition amendments Nos 14 and 15 [C2014-033D] be agreed to—put.

The Committee divided.

Ayes, 16

Ms Barham
Mr Buckingham
Ms Cotsis
Dr Faruqi
Mrs Houssos
Mr Pearson

Mr Primrose
Mr Searle
Mr Secord
Ms Sharpe
Mr Shoebridge
Mr Veitch

Ms Voltz
Mr Wong
Tellers,
Mr Mookhey
Mr Moselmane

Noes, 22

Mr Ajaka	Mr Gallacher	Mrs Mitchell
Mr Amato	Mr Gay	Reverend Nile
Mr Blair	Mr Green	Mr Pearce
Mr Borsak	Mr Harwin	Mrs Taylor
Mr Brown	Mr MacDonald	
Mr Clarke	Mrs Maclaren-Jones	<i>Tellers</i>
Mr Colless	Mr Mallard	Mr Franklin
Mr Farlow	Mr Mason-Cox	Dr Phelps

Pair

Mr Donnelly

Ms Cusack

Question resolved in the negative.**Opposition amendments Nos 14 and 15 [C2015-033D] negatived.**

Mr DAVID SHOEBRIDGE [11.08 p.m.]: I thought I had sought leave to move The Greens amendments Nos 5 and 6 together.

The CHAIR (The Hon. Trevor Khan): Order! No, you did not. I heard you say that towards the end of your speech but you did not actually move them both.

Mr DAVID SHOEBRIDGE: In any event, I do not think I can move amendment No. 6 because it is consequential upon amendment No. 5 succeeding. It must now lapse. Otherwise it is retrospectively reinstating benefits that have never been granted. So I think it lapses in any event.

Reverend the Hon. FRED NILE [11.10 p.m.]: I move Christian Democratic Party amendment No. 1 on sheet C2015-048:

No. 1 Death benefits

Page 18, schedule 6. Insert after line 30:

- (2) This clause does not apply to an amendment made by the 2015 amending Act to section 25 or 26 of the 1987 Act (or to clause 5 of this Part in its application to such an amendment).

This is an amendment to the Workers Compensation Amendment Bill 2015. It has been drawn to my attention that, because of changes made in 2012 to exempt police, paramedics and firefighters from the 2012 workers compensation changes—which, in fact, I negotiated with the Government on that occasion—unless we move this amendment they will not get the benefits in the new bill. I noticed this, and the Police Association of NSW became aware of this as well. They have been here tonight. We all understand that police, paramedics and firefighters face risks at work that are greater than those faced by other workers. In recognition of that, I have moved this amendment. It will enhance the 2015 bill to extend death and funeral benefits to police, paramedics and firefighters in recognition of the often dangerous work undertaken by these very important members of our community. The Christian Democratic Party strongly believes it is appropriate to apply the increased death benefits and funeral expenses to them, so I am very pleased to move this amendment.

The Hon. ADAM SEARLE (Leader of the Opposition) [11.11 p.m.]: The Opposition supports this amendment. It does not give any greater rights to police and emergency service workers; it simply ensures that the increases in death benefits and funeral costs in this bill are also afforded to those workers and that they are not unintentionally left out by this Government in its sloppy, cavalier haste to slam this legislation through the Parliament. I will give the Government the benefit of the doubt and say that it omitted those workers through its carelessness and negligence as opposed to sleight of hand, because I do not think any government in its right mind would choose to pick a fight with the police or the emergency services. Nevertheless, in its haste the Government was about to perpetrate an omission of rights for these workers just through sheer thoughtlessness. If it had not been for the alacrity of the Police Association of NSW this afternoon—

The Hon. Dr Peter Phelps: And Fred Nile.

The Hon. ADAM SEARLE: I will come to that. It was the Police Association that raised this issue with parties across the Chamber.

The Hon. Dr Peter Phelps: Reverend the Hon. Fred Nile said that he spotted it.

The Hon. ADAM SEARLE: I welcome this amendment moved by Reverend the Hon. Fred Nile, and we support it. But let us be very clear about this: If the Government had approached this reform agenda more carefully and allowed a bit more time for consideration then omissions such as this could have been picked up in a more timely way. It is good that this one has been picked up, but others have not been. I am sure that if we had a bit more time we would find others. For example—and I know this will be remedied in due course—in this bill the Government is seeking to abolish the parliamentary oversight now afforded by the law and justice committee. I am sure that will be reinstated.

The CHAIR (The Hon. Trevor Khan): Order! The Hon. Adam Searle should speak to the amendment.

The Hon. ADAM SEARLE: I am giving a further example of the carelessness and negligence that occurs through haste.

The Hon. Shaoquett Moselmane: That seems to be in order.

The Hon. ADAM SEARLE: It is a very measured observation. I am simply saying that, when dealing with fundamental rights, taking a bit of care and time—as we urged at the beginning of this debate—will ensure that slip-ups such as this are picked up. We will all support the amendment, but it is a good lesson on the importance of taking a bit of time and care.

The Hon. ROBERT BROWN [11.14 p.m.]: Obviously the Shooters and Fishers Party will support this amendment as well, and I extend our thanks to the Leader of the Opposition for the lecture.

Mr DAVID SHOEBRIDGE [11.14 p.m.]: The Greens support this amendment. It is good that this has been picked up. We have dealt with this legislation so hurriedly that there will be a bunch of things we have not noticed. We will be back here in a couple of years—hopefully sooner—fixing up all the other errors that will have been missed. This is complicated legislation dealing with a complicated subject and we will have dealt with it in less than 24 hours from when it was introduced into this House. To be absolutely clear, The Greens support this amendment.

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) [11.15 p.m.]: The Government supports the amendment moved by Reverend the Hon. Fred Nile. The Government supports the amendment to the Workers Compensation Amendment Bill 2015 to extend the enhanced death and funeral benefits to exempt workers. The amendment will apply the increased amounts for the death benefit and funeral expenses in schedule 1 to police officers, paramedics and firefighters. Police officers, paramedics and firefighters are otherwise exempt from the operation of the bill, which is consistent with the position taken in relation to the 2012 amendments. Reverend the Hon. Fred Nile spoke about that in his contribution. However, in recognition of the often dangerous work undertaken by these very important members of our community, the Government believes it is appropriate to apply the increased death benefit and funeral expenses to them. It is probably best that I do not comment on the lecture given by the Leader of the Opposition.

Mr DAVID SHOEBRIDGE [11.16 p.m.]: I said earlier that there are almost certainly issues that have not been considered because this process is so rushed. I ask the Government: Does it cover coalminers? Coalminers have a separate carve out and separate protection. Are we going through the process now, via these improved death benefits, of restoring benefits to police and emergency services workers but not to coalminers? As I read the amendment, it does not look like it covers coalminers. To be clear, coalmining is dangerous and coalminers deserve the proper protection of death benefits. If the Government thinks it is right, as I do, to increase the death benefits of paramedics, police officers and every other worker in this State, has this process been so rushed that it has forgotten about coalminers?

The Hon. Robert Brown: They have their own scheme.

Mr DAVID SHOEBRIDGE: They have their own scheme, but their scheme has statutory benefits determined under a statutory regime that had its death benefits set out and frozen in 2000. I know for a fact that those death benefits are less than the lump-sum benefits in this legislation.

The Hon. Robert Brown: I am not sure about that.

Mr DAVID SHOEBRIDGE: They are absolutely less than that. I ask the Minister to clarify on the record whether the Government, in its haste to get this done, has forgotten about the coalminers. Clearly, they should be protected.

The Hon. ADAM SEARLE (Leader of the Opposition) [11.18 p.m.]: On that point, it is not quite correct to say that coalminers have their own scheme. Coalmining in this State is covered by a self-insurance arrangement through what used to be the Joint Coal Board—it is now Coal Services, a company limited by guarantee that is jointly owned by the NSW Minerals Council and the Construction, Forestry, Mining and Energy Union [CFMEU]. It does have specified benefits. It would be awkward to say the least if they were omitted. If the Minister is not about to offer clarification, this would be extraordinary because, together with police officers, paramedics and firefighters, coalminers were exempted from many of the benefit reductions of the mid to late 1990s and also those that took place in the early part of this century—not only because of the extremely dangerous nature of the industry but also because it was self-insured and able to look after itself financially without impacting the rest of the scheme or drawing on that scheme.

While they have had the benefit of those additional protections, if there are general increases in the death benefit and the funeral allowances, it would be a travesty if they were deprived of those additional benefits. It is good to see everyone has rushed to support the police, the paramedics and the firefighters, but I look forward to the Minister giving the Chamber an ironclad guarantee that the amendment brought forward by Reverend the Hon. Fred Nile covers coalmining and coalminers as well.

Mr DAVID SHOEBRIDGE [11.20 p.m.]: Reading, as best I can, the tea leaves of the interaction between Government members and the advisers in the President's Gallery, it seems pretty clear that the advice the Government is getting is that coalminers will not be covered and will not be protected. That appears to be fairly clear, but I am happy for that to be clarified. But, as best as I can read it, the advice that the Government is getting is that coalminers will not get the improved death benefits, despite working in one of the most dangerous industries in the State. I repeat: The Greens are strongly of the belief that every worker should have access to these death benefits, and that coalminers should not be excluded from them. Those working in such a dangerous industry should have these benefits.

The CHAIR (The Hon. Trevor Khan): Order! I note that the amendment seeks to extend the provisions in the 2012 Act to the 2015 Act. That is as I understand Reverend the Hon. Fred Nile's amendment. The matters now being addressed are not matters that are addressed by Reverend the Hon. Fred Nile's amendment, and are therefore outside the scope of the amendment. Though I have allowed a degree of latitude, long speech-making about additional classes that were not addressed in the 2012 amendments moved by Reverend the Hon. Fred Nile, or in the amendment that he has now moved, are out of order. I so rule.

Mr DAVID SHOEBRIDGE: The amendment that Reverend the Hon. Fred Nile has moved has been properly characterised by the Chair: It seeks to ensure that classes of workers that were protected by the 2012 do not unintentionally lose the increased death benefits. But there were two classes of workers protected in the 2012 reforms, and they were both protected in the bill passed by this House in 2012. Those two classes of workers were the coalminers and the police and emergency services workers.

The CHAIR (The Hon. Trevor Khan): Order! I have ruled, and I do not wish—

Mr DAVID SHOEBRIDGE: I have finished my contribution.

The CHAIR (The Hon. Trevor Khan): I call the Minister, whom I ask to note my ruling. I do not want the Minister to open a scab again.

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) [11.23 p.m.]: I certainly do not want to flout the ruling of the Chair. However, a number of assertions made in relation to this are on record, and I believe it would be prudent to afford me the opportunity to provide a brief explanation to correct the record, given what has been said by some members. With respect, Chair, I do not want to flout your ruling because I acknowledge that this matter is outside the amendment that is before the Committee. I say briefly that coalminers have been exempt from most workers compensation amendments since 2001; they have a separate scheme, their benefits are under that scheme and will not be affected by the bill. I thank the Chair for that indulgence.

The CHAIR (The Hon. Trevor Khan): In those circumstances, I will put the question.

Question—That Christian Democratic Party amendment No. 1 [C2015-048] be agreed to—put and resolved in the affirmative.

Christian Democratic Party amendment No. 1 [C2015-048] agreed to.

Title agreed to.

Question—That the Workers Compensation Amendment Bill 2015 as amended be agreed to—put and resolved in the affirmative.

Workers Compensation Amendment Bill 2015 as amended agreed to.

The CHAIR (The Hon. Trevor Khan): Order! The Committee will now deal with the second bill, the State Insurance and Care Governance Bill 2015. If there is no objection, the Committee will deal with the bill as a whole. I trust that members have the amendments. I have four sheets of amendments: Opposition amendments on sheet C2015-037B, Opposition amendments on sheet C2015-045, Shooters and Fishers Party amendments on sheet C2015-038B—which I understand were the first set of amendments—and Christian Democratic Party amendments on sheet C2015-039F. I call the Hon. Robert Brown to move the Shooters and Fishers Party amendments.

The Hon. ROBERT BROWN [11.27 p.m.]: I have five amendments on one sheet, and I had intended to seek leave to move them in globo. I have now been given a running sheet, and I see that there is quite a bit of conflict between my amendments, the Opposition amendments and the Christian Democratic Party amendments. However, Shooters and Fishers Party amendments Nos 1 and 2 are concurrent and not mutually exclusive; in fact, I could move them without their having an effect on the remaining amendments. However, if I were to move my amendments in globo, and lose the vote on those amendments taken in globo, that would automatically wipe out Christian Democratic Party amendments Nos 1 and 2 and Opposition amendments Nos 1 and 2, and I do not wish to do that. So I seek leave to move Shooters and Fishers Party amendments Nos 1 and 2 on sheet C2015-038B, in globo.

Leave granted.

The Hon. ROBERT BROWN [11.28 p.m.]: I foreshadow that I will not be moving the remaining amendments. By leave, I move Shooters and Fishers Party amendments Nos 1 and 2 in globo:

No. 1 **Committees of ICNSW Board**

Page 4, clause 9 (1), lines 15–18. Omit all words on those lines.

No. 2 **Committees of ICNSW Board**

Page 4, clause 9 (2), line 19. Omit "other".

The suite of amendments Nos 1 to 5 were designed to remove the changes to the Dust Diseases Board from this second bill. It is evident, from discussions with the Christian Democratic Party, that I will not have the numbers to do that. However, I think I can safely move Shooters and Fishers Party amendments Nos 1 and 2, which go part of the way towards achieving what may well be an amended bill; I believe the numbers are here for an amended bill with the Christian Democratic Party amendments. In foreshadowing that I will not move Shooters and Fishers Party amendments Nos 3 to 5, I guess I am saying that I am running up the flag, but I can count. So I do not want to waste members' time at this late hour. I expect we will end up with an amended bill. I commend Shooters and Fishers Party amendments Nos 1 and 2 to the Committee.

Reverend the Hon. FRED NILE [11.29 p.m.]: I thank the Hon. Robert Brown. The Shooters and Fishers Party amendments Nos 1 and 2 are the same as Christian Democratic Party amendments Nos 1 and 2. So I am happy to support the Hon. Robert Brown's amendments and then proceed with my amendments, which are all subsequent to those first amendments.

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) [11.30 p.m.]: The Government supports the Shooters and Fishers Party amendments Nos 1 and 2.

The Hon. ADAM SEARLE (Leader of the Opposition) [11.30 p.m.]: The Opposition also supports the Shooters and Fishers Party amendments Nos 1 and 2.

Question—That Shooters and Fishers Party amendments Nos 1 and 2 [C2015-038B] be agreed to—put and resolved in the affirmative.

Shooters and Fishers Party amendments Nos 1 and 2 [C2015-038B] agreed to.

The CHAIR (The Hon. Trevor Khan): The Committee will now move on to Opposition amendment No. 3, which I suspect may be moved in globo with Opposition amendments Nos 7 and 8.

The Hon. ADAM SEARLE (Leader of the Opposition) [11.31 p.m.]: If that is the best way to proceed, I am happy to do so.

The CHAIR (The Hon. Trevor Khan): I think it is, on the understanding—as I understand so far—that the Hon. Robert Brown will not be moving his amendments Nos 3, 4 and 5.

The Hon. ADAM SEARLE: How does that impact on Opposition amendments Nos 4, 5 and 6? It was originally my intention to move all my amendments in globo. Would that create a conflict with other amendments?

The CHAIR (The Hon. Trevor Khan): No. The Hon. Adam Searle may proceed.

The Hon. ADAM SEARLE, by leave: I move Opposition amendments Nos 3 to 8 on sheet C2015-037B in globo:

No. 3 Retention of Dust Diseases Board

Page 5, clause 10 (2) (a), lines 2 and 3. Omit all words on those lines.

No. 4 Retention of Dust Diseases Board

Page 5, clause 12 (4) (b), lines 34 and 35. Omit all words on those lines.

No. 5 Retention of Dust Diseases Board

Pages 52–56, schedule 10, line 3 on page 52 to line 29 on page 56. Omit all words on those lines.

No. 6 Power of Dust Diseases Board to invest money in Fund

Page 52, schedule 10, insert after line 2:

Section 6 Constitution of Fund

Omit section 6 (2AA). Insert instead:

(2AA) The board may invest money in the Fund that is not immediately required for the Fund:

- (a) in such manner as may be authorised by the *Public Authorities (Financial Arrangements) Act 1987*, or
- (b) if that Act does not confer power on the board to invest money in the Fund—in any other manner approved by the Minister with the concurrence of the Treasurer.

No. 7 Retention of Dust Diseases Board

Page 72, schedule 15.15 [1], line 7. Omit all words on that line.

No. 8 Retention of Dust Diseases Board

Page 72, schedule 15.15 [2], line 12. Omit all words on that line.

Essentially, what we are grappling with here is the removal from the bill of proposed changes to the current Dust Diseases Board, a board which has operated for decades on a tripartite basis without adverse incident or comment. The legislation before us does a couple of things in particular. It removes the tripartite governing board of three employer representatives, three union representatives and an impartial chair, and reposes that body's decision-making power in the hands of a chief executive. Under schedule 10 to the bill, on page 52, the

Act would constitute the Workers Compensation (Dust Diseases) Authority. The authority is a government agency—so no longer independent—and the authority has the functions to determine claims for compensation under the Act, and other functions. The Minister is to appoint a person as the chief executive of the authority and the affairs of the authority are to be managed and controlled by that chief executive.

Schedule 1B reveals that the chief executive may be removed from office by the Minister at any time, for no stated reason and without notice. To put it simply, an independent, tripartite body is being removed and replaced with a ministerial appointee with no tenure and no security—a complete ministerial cipher. Unlike workers compensation generally, the compensatory powers given to this board are wide and discretionary and governed by the board's own policies. I do not think there has been an appeal for many years, but if there were to be an appeal on a decision of that body it would be done in the District Court by way of a judicial review that would look at whether there was natural justice and whether it followed its own procedures and policies.

There is no guarantee that those policies and procedures now in place will be followed by this new chief executive. The Government is at pains to say there will be no reductions in compensation to victims and no reductions in other benefits. That may be true in a formal legal sense, but by changing the gatekeeper and the guardian of the purse you potentially change access not just to the money but to the other associated support and benefit that is given by this important body. In the review of the exercise of the functions of the Dust Diseases Board recently completed by the Standing Committee on Law and Justice, which I referred to in my contribution to the second reading debate, there were two findings and a recommendation. The first finding was:

That the Workers' Compensation (Dust Diseases) Board is executing its statutory functions and corporate governance responsibilities in an exemplary manner.

You do not hear that too often about government agencies, but this was the finding.

The Hon. Robert Brown: If ever.

The Hon. ADAM SEARLE: If ever. The second finding was:

That the Workers' Compensation (Dust Diseases) compensation scheme meets the needs of workers with dust diseases and their dependants.

In the State of New South Wales you do not often hear that a compensation scheme is actually meeting the needs of victims, but it is in this case. In terms of the summary of recommendations, recommendation 1 was:

That the NSW Government investigate the feasibility of introducing provisional liability for malignant claims to the scheme.

I am informed that the board is currently drafting policies to address the implementation of that recommendation for provisional liability. The changes proposed by the Government, it must be said, have come out of the clear blue sky. There is no controversy about this body; there was no warning. Government members on the law and justice committee gave it a full endorsement and a tick of approval. So the reforms proposed in the legislation are mysterious, centralising control in the Minister for reasons that have never been articulated by the Minister in either this or the other place.

Nevertheless, we have heard from the Hon. Robert Brown and others that although the board currently only meets monthly it has out-of-session electronic meetings so that there is no delay in approving claims. I am told that claims are often approved within a 24-hour period by that electronic means. But this is all to be replaced by a bureaucrat, for public policy reasons that have never been adequately explained—if at all. We say that that is not good enough. The status quo should be maintained. This important institution that has done its work quietly and productively should be retained. Amendment No. 6 is important. It does not preserve the status quo but would restore a situation that I believe applied before 2012. The board used to be able to make decisions about investment matters of the fund. I believe since 2012 that has been done by the Safety, Return to Work and Support Board, but that body is about to be abolished by this legislation. I assume that all those functions will go to Insurance and Care NSW. I believe the investment decisions that relate to the dust fund should rest with a retained dust board. That is an important step, restoring the pre-2012 situation.

In moving these amendments, the Opposition wants to retain not only something that is called the Dust Diseases Board but a body that actually retains the functions that the Dust Diseases Board now has. We will consider other amendments tonight that aim to retain a body that has that name but retains only part of the functions—the functions to confer grant moneys in connection with research, which is an important task. We will support that if we must, but the crucial work done in this space involves decisions about who to award

compensation payments to, how much those compensation payments should be and whether other services and support should be provided to victims and their families in the nature of, for example, home modifications, lawn-mowing services and other ancillary services that the Dust Diseases Board currently determines.

Unless these amendments are carried, those functions will be taken away from this independent, tripartite body and given to a single, insecure—in a legal sense—bureaucrat who is not even a public servant. That person will not have any of the protections of the government sector employment legislation. Although that person will be appointed for a term, they will have no security of tenure because they can be removed at any time for any reason or no reason. It does not require much leave of the imagination to know that a person in such an insecure position, courtesy of the Minister, will simply be an extension of the Minister's will. At the moment, those functions are carried out independently of the executive by an autonomous, tripartite board.

I would like to understand what the policy purpose of this proposal is. Why abolish a body independent of governments of all stripes that has done its work for 80 years without controversy and to the full satisfaction of those whom it serves? Why, when only a few months ago government members gave that body such a glowing endorsement—and rightly so—is such a fundamental root-and-branch change being effected? That seven-person board representing employers and employees, with an impartial chair, will go. It will be replaced by a chief executive who will make all those decisions. That should not be permitted. The status quo for the Dust Diseases Board should be retained. All members should join with the spirit of the report of the committee on law and justice and retain that body and its existing functions.

The Hon. ROBERT BROWN [11.41 p.m.]: I said all I needed to say in the debate in the second reading and earlier. The Shooters and Fishers Party supports Opposition amendments Nos 3 to 8.

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) [11.41 p.m.]: The Government opposes the proposed amendments moved by the Opposition. I signal that the Government is likely to support other amendments to be moved in this area by other parties. The amendments moved by the Opposition are intended to exclude the Workers Compensation Dust Diseases Board from the package of reforms. The changes would mean that Insurance and Care NSW would not be required to provide services to the dust diseases scheme. That would undermine the policy goals of establishing Insurance and Care NSW. It is intended to be a consolidated service provider with a simplified governance structure servicing all government insurance schemes. Allowing Insurance and Care NSW to service all schemes, including dust diseases, means that it can leverage the skills and expertise of staff across the schemes. These amendments would work against those improvements.

The amendments would also mean that no chief executive would be appointed to the dust diseases scheme. The appointment of a chief executive is expected to result in more rapid decision-making on dust diseases claims. The amendments would undo those expected advances. The Government is seeking to provide faster access to financial and health care support and to improve services. The proposed amendments would undermine those improvements. The amendments would also give the Dust Diseases Board the power to invest the workers compensation dust diseases funds. For that reason, the amendments make no sense. The Dust Diseases Board is not required to have any expertise in investment. Surely it is not suggested that a group with no investment experience should manage an insurance scheme with assets of \$1 billion and liabilities of \$1.8 billion?

The current Dust Diseases Board structure is based on the size of the scheme as it was in 1942 and is unsuitable to manage a modern insurance scheme with substantial assets and liabilities. The funds should be managed by a board with investment expertise. Since 2012 the Safety, Return to Work and Support Board has had that role. That board has relevant experience. It already manages the investment strategy of all safety, return to work and support funds. The Government's bill will provide Insurance and Care NSW with oversight of the investment. Given that that body will manage scheme funds, it will also have relevant investment expertise. Providing the Dust Diseases Board with investment oversight is not appropriate and is financially irresponsible. For these reasons, the amendments are not supported.

Mr DAVID SHOEBRIDGE [11.44 p.m.]: This bill does one very good thing. It largely implements recommendations Nos 1 and 3 of the review of WorkCover by the Standing Committee on Law and Justice. Recommendation No 1 states:

That the Minister for Finance and Services, in consultation with the WorkCover Independent Review Office and other stakeholders, consider establishing a separate agency or other administrative arrangements to clearly separate the roles of regulator and nominal insurer in the workers compensation scheme, and implement that model as soon as practicable.

This bill implements that recommendation, and I commend the Government for doing that. The other recommendation that it implements is recommendation No 3, which states:

That the WorkCover Authority of NSW, in consultation with stakeholders, review the procedures currently utilised to distinguish between the work health and safety regulatory and advisory roles of WorkCover, and implement protocols to minimise potential conflicts of interest.

This bill does that. It separates the work health and safety regulatory and advisory roles of WorkCover and implements separate schemes. WorkCover is a big entity that is full of conflicts. It owns the money and it drafts the regulations and guidelines on how that money is distributed to workers. It not only sets the rules for work health and safety in the workplace but also prosecutes in relation to those rules. It is full of conflicts. This bill grapples with those issues and breaks up a very large and over-wieldy bureaucracy without losing any jobs. It does that by creating the three entities: Insurance and Care NSW, which is the single provider of services for New South Wales insurance and care schemes; the State Insurance Regulatory Authority, which is the new regulator of New South Wales Government insurance schemes; and SafeWork NSW, which is the independent work health and safety regulator.

The Hon. Niall Blair: Point of order: As much as the Government is happy for the member to outline the positive aspects of the bill, his contribution sounds like a speech in the second reading debate and is not addressing the amendments before the Committee. I encourage the member to address the amendments that are on the table. This is the Committee stage of debate, not the debate on the second reading.

Mr DAVID SHOEBRIDGE: I note the observation. It is a great pity that, in what is otherwise terrific legislation in that regard, the Government transfers the functions of the Dust Diseases Board to Insurance and Care NSW. Of all the parts of the New South Wales Government, the Dust Diseases Board is working really well. It has eight decades of experience. When stakeholders—who included doctors, injured workers and their family members, union members and lawyers—gave evidence to the committee inquiry into the functions of the Dust Diseases Board, everyone said it was an exemplary organisation. They said it in different language, but they all said the same thing. It is really unfortunate that this legislation is being rushed through tonight. Stakeholder concerns about the proposed remodelling have been communicated to my office. I know that they have also been communicated to the Minister's office, to the Opposition, to the Shooters and Fishers Party and to the Christian Democratic Party. Those concerns could have been ameliorated by further considered review—

The Hon. Duncan Gay: To the point of order raised by my colleague: The member made exactly the same points in his speech in the debate on the second reading earlier today. There are specific amendments before the Committee tonight and the member has indicated that he will support them. But he is talking about possible problems caused by, in his view, people not being given the opportunity to see the bill. I request that the member be drawn back to the amendments that are before the Committee.

The CHAIR (The Hon. Trevor Khan): Order! At 11.50 p.m. I am prepared to say that I have some sympathy with the point of order that has been taken. I ask Mr David Shoebridge to address the amendments before the Committee.

Mr DAVID SHOEBRIDGE: These amendments seek to protect the Dust Diseases Board from these changes, which will undoubtedly remove the ability for the independent board to make determinations on benefits. Almost all decisions of the independent board are made by consensus. It is a good process, so why is it being removed? No explanation or reason has been given. Some benefits may arise as a result of going to the Insurance and Care NSW system. However, stakeholders should have been given time to digest what those benefits might be. We are dealing with vulnerable people who have asbestos-related diseases and other dust diseases. They are anxious and concerned and no time has been allocated to properly allay their concerns. I hope that Insurance and Care NSW will have some positive features and that it will make life easier for those workers and their family members. But I am not convinced it will and neither are the stakeholders because there has been no time to properly assess the scheme.

We are losing the respect of an independent board that has worked well for eight decades. Why rush the legislation? I ask the Minister to at least give an undertaking that within the next seven days arrangements are made to bring stakeholders and current participants together so an explanation can be given as to why the

Government believes their concerns are not valid and how they will be protected. It must happen as quickly as possible because they are vulnerable people who deserve a fuller explanation. For those reasons, The Greens support the Opposition amendments.

The Hon. ADAM SEARLE (Leader of the Opposition) [11.51 p.m.]: I thank honourable members for their contributions to these amendments. The Minister made some observations about the board's investment expertise. I indicated earlier that the Dust Diseases Board used to oversee investment decisions prior to 2012 and I am sure its prior expertise can be reinstated. The Minister also commented that Insurance and Care NSW will provide support services for all of these bodies. Let us not get too carried away. Insurance and Care NSW will employ the staff who work at the Dust Diseases Board—to be renamed the Dust Diseases Authority—and Insurance and Care NSW will provide the office space, and that is the end of it.

As I understand the legislation before the House, Insurance and Care NSW does not provide any expertise specifically related to dust matters. That expertise will be the responsibility of the chief executive appointed in accordance with schedule 10. Insurance and Care NSW is an umbrella title that will have certain overarching responsibilities relating to investment. Regarding other parts of the scheme, it will be the employer of staff and it will be the landlord that provides the bricks and mortar where important activities will take place.

The Insurance and Care NSW apparatus is only smoke and mirrors where the Dust Diseases Board is concerned because the real action will rest with who decides the compensation payments. It is no longer the seven-person tripartite board but a single insecure chief executive. The Minister in this Chamber and the primary Minister in the other place have said nothing that provides any sound rationale for this fundamental policy change. They have not attempted to allay the concerns of concerned stakeholders about the loss of an independent decision-making board that is at arm's length from the Executive government. They have not explained why the Executive government feels the need to bring the decisions of the independent board under its control. They have provided no rationale or explanation as to how the decision-making of individual compensation claims will be maintained under this regime. I understand they have not because they cannot.

Question—That Opposition amendments Nos 3 to 8 [C2015-037B] be agreed to—put.

The Committee divided.

Ayes, 18

Ms Barham	Mr Mookhey	Mr Veitch
Mr Borsak	Mr Pearson	Ms Voltz
Mr Brown	Mr Primrose	
Mr Buckingham	Mr Searle	
Ms Cotsis	Mr Secord	<i>Tellers,</i>
Dr Faruqi	Ms Sharpe	Mr Moselmane
Mrs Houssos	Mr Shoebridge	Mr Wong

Noes, 20

Mr Ajaka	Mr Gallacher	Mr Mason-Cox
Mr Amato	Mr Gay	Mrs Mitchell
Mr Blair	Mr Green	Reverend Nile
Mr Clarke	Mr Harwin	Mrs Taylor
Mr Colless	Mr MacDonald	<i>Tellers,</i>
Ms Cusack	Mrs Maclaren-Jones	Mr Franklin
Mr Farlow	Mr Mallard	Dr Phelps

Pair

Mr Donnelly

Mr Pearce

Question resolved in the negative.

Opposition amendments Nos 3 to 8 [C2015-037B] negatived.

The Hon. ADAM SEARLE (Leader of the Opposition) [12.02 a.m.]: I move stand-alone Opposition amendment No. 1 on sheet C2015-045:

No. 1 **Supervision of the exercise of functions of relevant authorities by Parliamentary Committee**

Page 11. Insert after line 1:

27 Supervision of the exercise of functions of relevant authorities by Parliamentary Committee

- (1) As soon as practicable after the commencement of this section and the commencement of the first session of each Parliament, a committee of the Legislative Council is to be designated by resolution of the Legislative Council as the designated committee for the purposes of this section.
- (2) The resolution of the Legislative Council is to specify the terms of reference of the committee so designated which are to relate to the supervision of the exercise of the functions of each relevant authority.
- (3) On the commencement of this section, the Parliamentary Committee designated under section 11 of the *Safety, Return to Work and Support Act 2012* (as in force immediately before its repeal by this Act) is taken to be the designated committee under this section.
- (4) In this section, **relevant authority** means any of the following:
 - (a) ICNSW,
 - (b) SIRA,
 - (c) Lifetime Care and Support Authority,
 - (d) Workers' Compensation (Dust Diseases) Board.

The intention of the amendment is to retain parliamentary oversight through what is now the Standing Committee on Law and Justice for the bodies for which it currently has parliamentary oversight. Currently there is committee oversight of the WorkCover scheme, the Dust Diseases Board scheme, the sporting injuries scheme, the motor accidents scheme and the Lifetime Care and Support Scheme. This bill, for reasons unexplained—perhaps oversight or perhaps overreach—abolishes that oversight. It was never mentioned in the Minister's second reading speech in this place or in the second reading speech of the Minister in the other place or in his reply; it was picked up in this place.

I understand that the Christian Democratic Party will be moving a similar amendment to preserve the parliamentary oversight but I gently remind members that the Christian Democratic Party amendment has omissions—it is limited to parliamentary oversight of the Lifetime Care and Support Scheme and the Workers Compensation Dust Diseases Scheme. It provides no parliamentary oversight for the Workers Compensation Scheme, for the Motor Accidents Compensation Scheme or for the Sporting Injuries Insurance Scheme. I ask the Christian Democratic Party to explain those omissions when it moves its amendments because I would like to understand them. I would like to understand why, if it has been good enough for the last several years for the Standing Committee on Law and Justice to have oversight of all these compensation authorities, it should not be retained and continued.

The Opposition amendment seeks to retain oversight by the Standing Committee on Law and Justice of all those bodies but the Christian Democratic Party amendments do not. If we must, we will support the Christian Democratic Party amendments, but we believe that parliamentary oversight of all the compensation authorities and schemes should be retained. A serious point is that there has been no discussion by the Government of this aspect of its package. No reason has been advanced in the other place or in this place as to why this change is being proposed. It looks like a Government that does not like answering to anyone other than its own faceless bureaucrats. However, let us give the Government the benefit of the doubt and assume there is some other cogent and rational public policy reason that it has not been frightened to advance. I look forward to hearing from the Minister.

CHAIR (The Hon. Trevor Khan): I call on Reverend the Hon. Fred Nile to move Christian Democratic Party amendment No. 3.

Reverend the Hon. FRED NILE: Is it possible to move Christian Democratic Party amendments Nos 3, 4 and 5?

CHAIR (The Hon. Trevor Khan): Yes. Once Reverend the Hon. Fred Nile has moved Christian Democratic Party amendments Nos 3, 4 and 5 we will put the Opposition amendment first and then we will put the Christian Democratic Party amendments.

Reverend the Hon. FRED NILE [12.06 a.m.], by leave: I move Christian Democratic Party amendments Nos 3 to 5 on sheet C2015-039F in globo:

No. 3 Supervision by Parliamentary Committee

Page 11. Insert after line 1:

27 Supervision of operation of insurance and compensation schemes by Parliamentary Committee

- (1) As soon as practicable after the commencement of this section and the commencement of the first session of each Parliament, a committee of the Legislative Council is to be designated by resolution of the Legislative Council as the designated committee for the purposes of this section.
- (2) The resolution of the Legislative Council is to specify the terms of reference of the committee so designated which are to relate to the supervision of the operation of the insurance and compensation schemes established under the workers compensation and motor accidents legislation.
- (3) On the commencement of this section, the Parliamentary Committee designated under section 11 of the *Safety, Return to Work and Support Board Act 2012* (as in force immediately before its repeal by this Act) is taken to be the designated committee under this section.
- (4) In this section, the *workers compensation and motor accidents legislation* includes the following:
 - (a) the *Motor Accidents (Lifetime Care and Support) Act 2006*,
 - (b) the *Workers' Compensation (Dust Diseases) Act 1942*.

No. 4 Existing Parliamentary Committee

Page 26, schedule 4, lines 5–7. Omit all words on those lines.

No. 5 Review of Act by Parliamentary Committee

Page 26, schedule 4. Insert after line 16:

13 Review by Parliamentary Committee

- (1) As soon as practicable after the second anniversary of the commencement of this clause, a committee of the Legislative Council is to be designated by resolution of the Legislative Council to review this Act (including the amendments made by this Act) to determine whether the policy objectives of the Act or those amendments remain valid and whether the terms of the Act (or of the Acts so amended) remain appropriate for securing those objectives.
- (2) The review is to be undertaken as soon as possible after the committee is appointed.
- (3) A report on the outcome of the review is to be tabled in each House of Parliament.

I believe that these amendments will satisfy some of the concerns that the Leader of the Opposition expressed. He seemed to be negative about the way in which my amendments will operate. The Christian Democratic Party believes that the important work of General Purpose Standing Committee No. 1 and the Standing Committee on Law and Justice in overseeing the Workers Compensation Scheme, the Lifetime Care and Support Scheme, the Workers Compensation Dust Diseases Scheme and the Motor Accidents Compensation Scheme should be preserved by this bill, which is what my amendments will do.

The Christian Democratic Party amendments will ensure, first, the ongoing supervision of the operation of insurance and compensation schemes in New South Wales by a committee of the Legislative Council. I anticipate that committee will be the Standing Committee on Law and Justice, as it has been historically. That standing committee has played an important role in reviewing new legislation passed by Parliament to ensure it is meeting its aims and objectives. Secondly, there is a specific requirement in these amendments for a committee of the Legislative Council to review the State Insurance and Care Governance Act two years after its commencement. I have suggested that that committee should be General Purpose Standing Committee No. 1

because that committee has conducted a number of inquiries into WorkCover, such as an inquiry into bullying at WorkCover, and a number of the committee's recommendations have been picked up by the Government in this legislation, such as splitting WorkCover into different units.

The Christian Democratic Party wants to establish more transparent and accountable insurance and care systems and ongoing monitoring and oversight of the schemes. A very important role of the standing committee is to ensure the Government achieves that for the people of New South Wales. The Standing Committee on Law and Justice plays an important oversight role. It has added great value in the past and it will continue to add great value in the future to the ongoing operation of Insurance and Care NSW, the State Insurance Regulatory Authority and Safe Work NSW. I believe that these provisions for additional oversight are an improvement to the bill. The New South Wales Bar Association made a similar recommendation to reinstate the role of the Standing Committee on Law and Justice, which my amendments will do. I seek the support of the Committee for the amendments that I have moved.

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council [12.10 a.m.]: I pick up one of the points made by Reverend the Hon. Fred Nile. He asked whether his amendments would be supported and the Minister who has carriage of this bill indicated to me that they will be supported. The Government shares the view that the Standing Committee on Law and Justice Committee should have this responsibility.

Mr DAVID SHOEBRIDGE [12.10 a.m.]: The Greens support both the Opposition amendment and the Christian Democratic Party amendments, which I think will probably achieve the same thing. I hope that the Government will clarify this issue. The proposed Christian Democratic Party amendments will add a new section 27 which says:

- (1) As soon as practicable after the commencement of this section and the commencement of the first session of each Parliament, a committee of the Legislative Council is to be designated by resolution of the Legislative Council as the designated committee for the purposes of this section.
- (2) The resolution of the Legislative Council is to specify the terms of reference of the committee so designated which are to relate to the supervision of the operation of the insurance and compensation schemes established under the workers compensation and motor accidents legislation.

I cannot find the relevant provision in the bill but I hope the Minister will point it out. As I understand it, the workers compensation and motor accidents legislation picks up the Workers Compensation Act and the Workplace Health and Safety Act 1998 which I think somewhere else is the same Act. This issue is complicated but I think both the Opposition amendment and the Christian Democrat Party amendments refer to the same issues. No matter which amendments are agreed to, the Standing Committee on Law and Justice will have oversight of the Motor Accident Scheme, the Dust Diseases Scheme, the Lifetime Care and Support Scheme and the workers compensation scheme. These amendments would retain the status quo for oversight, which is important for the reasons previously stated.

The Hon. ROBERT BROWN [12.12 a.m.]: The Shooters and Fishers Party believes that the three amendments moved by the Christian Democratic Party will have the same effect. We think, because of the numbers in this Chamber, they are likely to have support. We think it is sensible to support the Christian Democratic Party amendments.

The Hon. NIAL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) [12.13 a.m.]: The Government opposes the Opposition amendment. However, the Government supports the Christian Democratic Party amendments because we believe they are a more refined iteration. Let me clarify the issue referred to by Mr David Shoebridge. New section 27 (2) states:

- (2) The resolution of the Legislative Council is to specify the terms of reference of the committee so designated which are to relate to the supervision of the operation of the insurance and compensation schemes established under the workers compensation and motor accidents legislation.

The definitions in the bill are clearly outlined as follows:

workers compensation and motor accidents legislation means any of the following Acts and the instruments under those Acts:

- (a) *Workplace Injury Management and Workers Compensation Act 1998,*
- (b) *Workers Compensation Act 1987,*

- (c) *Workers Compensation (Bush Fire, Emergency and Rescue Services) Act 1987,*
- (d) *Motor Accidents Compensation Act 1999,*
- (e) *Motor Accidents Act 1988.*

New section 27, as proposed in the Christian Democratic Party amendments, will add the following:

- (a) *the Motor Accidents (Lifetime Care and Support) Act 2006,*
- (b) *the Workers' Compensation (Dust Diseases) Act 1942.*

I think we are all in agreement but I wanted to place on the record those bodies for which the oversight committee will have coverage.

The Hon. ADAM SEARLE (Leader of the Opposition) [12.15 a.m.]: I thank the Minister for outlining that. When I moved my amendment I should have changed one word in paragraph (d) from "board" to "authority". I seek leave to make that amendment.

Leave is granted.

The Hon. ADAM SEARLE: I amend my amendment as follows:

- (d) *Workers Compensation (Dust Diseases) Authority.*

As Reverend the Hon. Fred Nile pointed out, there has been correspondence from the New South Wales Bar Association about these changes, expressing concern and surprise at the omission of parliamentary oversight from the scheme. It stated that the periodic parliamentary reviews are of critical importance because they provide an opportunity for stakeholders to have periodic input through submissions to Parliament, which is true. Fundamentally, the role of a parliamentary committee in periodically reviewing the operation of State compensation schemes is an accountability measure, as we have seen through the work of the Standing Committee on Law and Justice. At some point, I would like the Minister or the Government to outline why these measures, which we are now in a scramble to adopt, were omitted from the bill.

The Hon. Robert Brown: Not tonight, surely.

The Hon. ADAM SEARLE: I am sure it would not be beyond the wit or wisdom of the public servants assisting the Minister to identify that.

The Hon. Walt Secord: Bureaucrats.

The Hon. ADAM SEARLE: I will not use that term. Rather, I refer to the public servants present who are diligently working in the public interest. It would be interesting and instructive to know why it was left out. It is probably, somewhere along the line, with the police and paramedics stuff. It is just another indication of what can be forgotten when things are done in a hurry.

Question—That Opposition amendment No. 1 [C2015-045] be agreed to—put and resolved in the negative.

Opposition amendment No. 1 [C2015-045] negatived.

Question—That Christian Democratic Party amendments Nos 3 to 5 [C2015-039F] be agreed to—put and resolved in the affirmative.

Christian Democratic Party amendments Nos 3 to 5 [C2015-039F] agreed to.

Reverend the Hon. FRED NILE [12.17 a.m.], by leave: I move Christian Democratic Party amendments Nos 6 to 8 on sheet C2015-039F on sheet C2015-039F in globo:

No. 6 **New Dust Diseases Board**

Page 52, schedule 10 [2]. Insert after line 12:

Dust Diseases Board means the Dust Diseases Board established by section 5AC.

No. 7 **New Dust Diseases Board**

Page 53, schedule 10 [4]. Insert after line 8:

5AC Dust Diseases Board

- (1) There is established a Dust Diseases Board comprising the following members appointed by the Minister:
 - (a) 3 persons appointed to represent employers,
 - (b) 3 persons appointed to represent employees,
 - (c) representatives of dust diseases sufferers' support, advocacy or awareness groups or organisations,
 - (d) persons involved in research into dust diseases or in academic matters relating to dust diseases,
 - (e) health professionals,
 - (f) an independent chairperson.
- (2) The Dust Diseases Board has such functions as are conferred or imposed on it by or under this or any other Act.
- (3) Subject to the regulations, a member of the Dust Diseases Board holds office for such period (not exceeding 3 years) as is specified in the member's instrument of appointment.
- (4) Subject to the regulations, the procedure for the calling of meetings of the Dust Diseases Board and for the conduct of business at those meetings is to be determined by the Chairperson of the Dust Diseases Board.
- (5) The regulations may make provision for or with respect to the members and procedure of the Dust Diseases Board.

No. 8 **Functions of new Dust Diseases Board**

Page 53, schedule 10. Insert after line 32:

[9] Section 6 (2A)

Omit "board". Insert instead "Dust Diseases Board".

I point out that these amendments will remove any reference to an expert advisory committee. The Christian Democratic Party does not support those provisions in the bill that would enable the establishment of an expert advisory committee. We believe that this can be carried out as has been proposed in our amendments. We believe that such a committee provides insufficient recognition of the skills and expertise required to oversee the workers compensation and dust diseases schemes.

That is the explanation for removing the so-called expert advisory committee. Therefore, we propose in our amendments to reinstate the Dust Diseases Board. These amendments amend the Workers Compensation (Dust Diseases) Act in recognition that this is the appropriate Act providing for the establishment of the Dust Diseases Board. The amendments recognise the appropriate skills and expertise required by the Dust Diseases Board. They also propose that the bill will have a similar membership to the previous Dust Diseases Board—that is three employer representatives; three employee representatives, which is usually negotiated with Unions NSW; a dust disease sufferers support advocacy or awareness group representative; a dust diseases research and/or academic representative; a health professional and, most importantly, based on comments by the Opposition and The Greens, an independent chair.

The amendments clarify that the functions of the board will continue to determine grants and continue the important work of the Dust Diseases Board in funding research into the prevention, diagnosis and treatment of dust diseases, which is vital now and into the future. I understand that the Dust Diseases Board is one of the largest funding bodies for research into dust diseases in Australia. Under my amendments that work will continue to be carried on by the Dust Diseases Board. I consider this an important amendment to the bill and I commend the amendments to the Committee.

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water)
[12.21 a.m.]: The Government supports the Christian Democratic Party's amendments to reconstitute the Dust

Diseases Board while recognising that the improvements made by the bill to the dust diseases scheme. The Government has always sought to retain the expertise of the current board of the Dust Diseases Board within the structure of the new advisory committee. The Government acknowledges that using the term "board" is an appropriate way of recognising the important functions that members of that committee will undertake.

The Government has also publicly stated its intention that the membership of the Dust Diseases Board should remain with the current employer and employee representation but that the membership should also be broadened to allow, for the first time, the voice and views of other important stakeholders to be heard in the administration of the dust diseases scheme. The Government has said that it proposes that the membership of the Dust Diseases Board also includes representatives from those groups that work to support dust diseases' sufferers to advocate on their behalf and raise awareness of dust diseases in the community.

The Government has said that it intends for the membership of the Dust Diseases Board to also include representatives from those bodies that work in the important area of research into the prevention, diagnosis and treatment of dust diseases as well as health professionals working to support the health needs of sufferers of dust diseases. The Government also acknowledges the commitment of the board of the Dust Diseases Board to funding research into the prevention, diagnosis and treatment of dust diseases. It was the Dust Diseases Board that provided the funding to build the Bernie Banton Centre at Concord Hospital, a world-class facility in New South Wales that conducts ground-breaking research into dust diseases. The Dust Diseases Board is one of the largest funding bodies for research into dust diseases in Australia. The Government considers it appropriate that this important work be carried on by the Dust Diseases Board. The Government supports the amendments.

Mr DAVID SHOEBRIDGE [12.23 a.m.]: The Greens do not oppose the amendments. This really is the Dust Diseases Board light; in fact, it is the Dust Diseases Board superlight. It is better than a poke in the eye with a blunt stick.

The Hon. ROBERT BROWN [12.24 a.m.]: I will not be as disingenuous as the previous speaker but I do think that, begrudgingly, this is an improvement. I acknowledge the work that Reverend the Hon. Fred Nile has done in getting this far. He is probably a bit more influential with the Minister than I because my assertion to the Minister was that he did not have to do any of this; he could have achieved what has been achieved now by other means. But the Government being the Government will do what it wants. We will support the cache of amendments put forward by the Christian Democratic Party because they go some way towards ameliorating what I see as a "no reason" part of the bill. Let us hope it works.

The Hon. ADAM SEARLE (Leader of the Opposition) [12.25 a.m.]: The Opposition will support the amendments but let us be very clear: this is not the Dust Diseases Board that currently exists. The Dust Diseases Board that exists today makes decisions about grants, which is very important, but it fundamentally determines claims for compensation. After today it will not do so. Under schedule 10 of this bill that power will be given to the chief executive, not to the dust board. Let us look at Christian Democratic Party amendment No. 7. Section 5AC subsection (2) states that the board has such functions as are conferred or imposed on it by this Act. Amendment No. 8, Functions of new Dust Diseases Board, is the real giveaway. It states:

Omit "board". Insert instead "Dust Diseases Board".

That is a huge change; it is earth shattering. If one goes back to the dust diseases legislation of 1942, Section 6 (2A) of that Act states:

The board—

now the Dust Diseases Board—

is authorised to make from the fund:

- (a) grants for the purposes of clinical or research work ...
- (b) grants for the purpose of providing assistance to groups or organisations that provide support for victims of dust diseases or their families.

That is very important work. I am glad to see that through these amendments that important work will be retained. I thank the Christian Democratic Party for salvaging something from the wreckage of this bill. I do not understand why the Government did not go a step further and retain the Dust Diseases Board in its current form, but that is a matter for the Government. The point is that while that work is important and will be retained in a

body called the Dust Diseases Board, all of the Dust Diseases Board's compensation payment power will be lost after today. It did not need to happen and it is only happening because of the will of this Chamber. We could have retained it; we are choosing not to and the reasons for that have not been advanced or disclosed publicly.

Reverend the Hon. FRED NILE [12.27 a.m.]: I thank all members who have spoken in support of the amendments. I acknowledge the work of the Bernie Banton Foundation, which has received a grant from the organisation. I commend the wife of Bernie Banton, Caroline Banton, who is carrying on as the executive officer of that foundation, for her excellent work.

Question—That Christian Democratic Party amendments Nos 6 to 8 [C2015-039F] be agreed to—put and resolved in the affirmative.

Christian Democratic Party amendments Nos 6 to 8 [C2015-039F] agreed to.

Reverend the Hon. FRED NILE [12.28 a.m.]: I move Christian Democratic Party amendment No. 9 on sheet C2015-039F:

No. 9 **Time limit for determining claims for compensation under Dust Diseases Act**

Page 54, schedule 10. Insert after line 25:

[19] Section 8 Certificate of Medical Assessment Panel and rates of compensation

Insert after section 8 (1):

- (1A) The Authority is to decide whether to accept or refuse a claim for compensation within 2 working days after:
 - (a) the Medical Assessment Panel issues a certificate under subsection (1), or
 - (b) the Authority is provided with the information required by the Authority to enable the claim to be determined, whichever is the later.
- (1AA) However any decision by the Authority made after that 2-day period in respect of the claim is not invalid merely because of when it is made.

This amendment is to relieve the concern of injured workers as to whether under the State Insurance and Care Governance Bill 2015 they will get rapid approval of their claims and so on. I drafted the amendment, which requires the Dust Diseases Authority to make a decision whether to accept or decline a dust diseases claim within two working days of a determination of the Medical Assessment Panel and the provision of information required by the authority to enable a claim to be assessed. Stakeholders and sufferers of dust diseases and their families have all spoken of the need for faster access to financial and healthcare support, as people who have been diagnosed with terminal lung cancer may lose their lives in a very short space of time. It can be less than 12 to 18 months from diagnosis. This makes the timely processing of claims imperative. This change to accept or decline claims within two days will provide peace of mind for workers and their families. I am pleased to move Christian Democrat amendment No. 9.

The Hon. ADAM SEARLE (Leader of the Opposition) [12.29 a.m.]: The Opposition will be supporting this amendment. It is good to provide such a short time frame for the determination of claims. One reason for the changes to the Dust Diseases Board was said to be concern that the board met only monthly. Of course, it has been well ventilated in this place that, by electronic means in the modern era, the current board has been determining claims within a 24-hour period. Nevertheless, currently there are no time frames in the legislation. So we acknowledge that providing a time frame of two working days is an improvement.

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) [12.30 a.m.]: The Government also supports the amendment. The Government acknowledges that the amendment proposed by the Christian Democratic Party will enhance claims processing times by the Dust Diseases Authority, and clearly that is in the best interests of claimants and people suffering from dust diseases. The Christian Democratic Party's amendments complement the Government's proposed changes to the dust diseases compensation governance which are aimed at improving the services delivered to workers with dust diseases and their dependents. At the heart of this is the need to provide faster access to financial and health care support.

The establishment of the Dust Diseases Authority will allow the highly skilled and experienced staff of the authority to determine applications for compensation for workers as soon as the medical authority has determined that the worker has a compensable dust disease. The changes proposed by the Christian Democratic Party to the governance of the dust diseases scheme will allow the staff of the authority to provide faster access to financial and medical support, including nursing care, assistance in the home, mobility aids and oxygen supplies. The Government acknowledges the important role the Christian Democratic Party has played in improving the reforms to the governance arrangements of the insurance schemes in New South Wales.

Reverend the Hon. FRED NILE [12.21 a.m.]: As the member proposing these amendments, I express my appreciation to the Minister, who was involved in all the discussions I have had on this legislation over the past two weeks. The Minister and WorkCover's chief executive officer gave me a great deal of time to try to relieve some of the concern expressed about the impact of the legislation.

Question—That Christian Democratic Party amendment No. 9 [C2015-039F] be agreed to—put and resolved in the affirmative.

Christian Democratic Party amendment No. 9 [C2015-039F] agreed to.

Title agreed to.

Question—That the State Insurance and Care Governance Bill 2015 as amended be agreed to—put.

Division called for.

Call for a division, by leave, withdrawn.

Question—That the State Insurance and Care Governance Bill 2015 as amended be agreed to—put and resolved in the affirmative.

State Insurance and Care Governance Bill 2015 as amended agreed to.

Workers Compensation Amendment Bill 2015 and cognate bill reported from Committee, each with amendments.

Adoption of Report

Motion by the Hon. Niall Blair agreed to:

That the report be adopted.

Report adopted.

Third Reading

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) [12.36 a.m.]: I move:

That these bills be now read a third time.

The PRESIDENT: I have received a request that the third readings be voted upon in seriatim, so I will put the two bills separately.

Question—That the Workers Compensation Amendment Bill 2015 be now read a third time—put and resolved in the affirmative.

Motion agreed to.

Workers Compensation Amendment Bill 2015 read a third time and returned to the Legislative Assembly with a message requesting its concurrence in the amendment.

Question—That the State Insurance and Care Governance Bill 2015 be now read a third time—put.

The House divided.

Ayes, 22

Mr Ajaka	Mr Farlow	Mr Mason-Cox
Mr Amato	Mr Gallacher	Reverend Nile
Mr Blair	Mr Gay	Mr Pearce
Mr Borsak	Mr Green	Mrs Taylor
Mr Brown	Mr Khan	
Mr Clarke	Mr MacDonald	<i>Tellers,</i>
Mr Colless	Mrs Maclaren-Jones	Mr Franklin
Ms Cusack	Mr Mallard	Dr Phelps

Noes, 16

Ms Barham	Mr Pearson	Mr Veitch
Mr Buckingham	Mr Primrose	Ms Voltz
Ms Cotsis	Mr Searle	
Dr Faruqi	Mr Secord	<i>Tellers,</i>
Mrs Houssos	Ms Sharpe	Mr Moselmane
Mr Mookhey	Mr Shoebridge	Mr Wong

Pair

Mrs Mitchell

Mr Donnelly

Question resolved in the affirmative.**Motion agreed to.**

State Insurance and Care Governance Bill 2015 read a third time and returned to the Legislative Assembly with a message requesting its concurrence in the amendments.

ADJOURNMENT

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council [12.45 a.m.]: I move:

That this House do now adjourn.

CITY OF SYDNEY ELECTIONS LEGISLATION

The Hon. PETER PRIMROSE [12.45 a.m.]: Last year the Parliament passed the City of Sydney Amendment Elections Bill, which commenced on 6 February 2015. The Labor Opposition opposed the bill as a travesty of democracy that was ill-thought out and purely partisan, like so much other legislation proposed by the Baird Government. While it would be disorderly to reflect on a decision of the House, I can refer to the subsequent implementation of the legislation. The Act, which for the moment is restricted to the City of Sydney, requires owners, rate-paying lessees and occupiers of rateable land who do not reside in the council area, to vote at the next council election. The Act requires the council to maintain and continually revise a register of non-residential rolls electoral information. The chief executive officer of the council is obliged to enrol persons, rather than the obligation falling on those entitled to enrol, as is the case with residential rolls.

The City of Melbourne legislation, on which the Sydney Act was based, was formed over a number of years from 1993, allowing the information systems to be established gradually. The Sydney legislation is different. Not only does it all have to be in place for the election scheduled in September 2016, but the register in Sydney has to be kept current at all times. Unlike the Melbourne legislation, the Sydney legislation obliges continual and absolute accuracy, which in reality, given the frequency and scale of changes to land interests in the council area, is impossible to achieve. So, while it is impossible to meet the legal obligations under this Act, the City of Sydney is legally required to attempt to do just that.

Following a major review by council officers and an independent review of the costings by PricewaterhouseCoopers, the cost for the period 2015 to 2017 is more than \$12 million. I will say that again:

City of Sydney ratepayers will have to pay \$12.044 million plus GST to implement this sloppy, partisan piece of legislation that has been so poorly drafted that it is impossible to fully comply with. PricewaterhouseCoopers estimates the absolute maximum number of non-residential enrollees could be approximately 124,000. They expect the reality to be much less, due to factors like sole directorships. But assume it is 124,000. That means each additional voter forced to go on this roll will cost \$97, plus GST of course. The general administration cost for the 2016 election in the City of Sydney is \$861,000. But now more than \$12 million has to be added to that cost thanks to Premier Mike Baird and Minister Paul Toole.

And if Minister Toole fools around with the City boundaries before then, as he keeps threatening, then the costs will keep going up and up. If you are a ratepayer in a local government area that Minister Toole wants merged with Sydney, think about it: Your rates will also then be paying for this expensive and perverse hijacking of the electoral roll. So much for Liberal Party claims about cutting red tape and reducing costs. Minister Toole is blowing away more than \$12 million of ratepayers' money on this political scam in the City of Sydney. What is more, the Government has already suggested it could expand this legislation to Newcastle, Parramatta, Lake Macquarie, Wollongong, Parramatta and councils such as Campbelltown.

Of course, the Government will likely automatically extend this electoral legislation to the new megacouncils that it wants to set up by forced amalgamations. Millions of dollars that could have been spent on better roads and services in areas like Strathfield, Randwick, Leichhardt and Canada Bay will be wasted to help get a few more Liberals elected to councils. Add it up: Millions of ratepayers' dollars will go down the tube every time the Liberal Party wants to try to rot a win in a megacouncil set up by forced amalgamations, and the expense will not stop between elections. This legislation is not fit for the future, Minister.

ANIMAL RESEARCH

The Hon. MARK PEARSON [12.49 a.m.]: I welcome the Parliament's commendation yesterday of the Medical Advances Without Animals [MAWA] Trust, which operates as an independent medical research and educational trust facilitating the development and use of non-animal based experimental methods by working cooperatively with the research community. Although the Animal Research Act of New South Wales stipulates that all animal research should be based on the three Rs—reduction, replacement and refinement—in theory it aims at minimising the use of animals in research. It does this through reduction, which is to reduce the number of animals used; replacement, which is to use alternative non-animal methods whenever they are available; and refinement, which is to refine all procedures to ensure that as little pain and stress as possible is experienced by the animals.

However, animal testing has created a multibillion dollar industry, encompassing the pharmaceutical and chemical industries, and university and government bodies. There is also a significant industry that manufactures cages and restraints. Humane Research Australia has identified that the trend over the past decade has been an increase rather than a decrease in animal testing. In 2013, in New South Wales 2,699,532 animals were used for research including more than 2,000 cats and dogs and 272,000 sheep. Of these, 0.53 per cent were in the "death as end point" category. The aim of experiments in this category requires the animals to die unassisted—that is, not euthanased, as death is "a critical measure of the experimental treatment".

This shameful torture and killing of animals underpins the absolute need for a visionary organisation such as the Medical Advances Without Animals Trust, which directly funds a wide variety of research projects, and advanced honours and doctoral scholarships to support research into a vast range of diseases, disorders and disabilities in leading universities and research institutions Australia-wide. It supports revolutionary work such as organs-on-a-chip at Harvard University's Wyss Institute. These chips are microdevices lined with living human cells that mimic the actual tissue structures, functions and motions of whole organs from liver to lungs and intestines. The chip is a revolutionary way of diagnosing. I dedicate the following poem, which was written by a medical doctor, to dogs that have been killed in research in New South Wales:

We called him "Rags". He was just a cur,
But twice, on the Western Line,
That little old bunch of faithful fur
Had offered his life for mine.

And all that he got was bones and bread,
Or the leavings of soldier grub,
But he'd give his heart for a pat on the head,
Or a friendly tickle and rub.

And Rags got home with the regiment,
And then, in the breaking away—
Well, whether they stole him, or whether he went,
I am not prepared to say.

But we mustered out, some to beer and gruel
And some to sherry and shad,
And I went back to the Sawbones School,
Where I still was an undergrad.

One day they took us budding MDs
To one of those institutes
Where they demonstrate every new disease
By means of bisected brutes.

They had one animal tacked and tied
And slit like a full-dressed fish,
With his vitals pumping away inside
As pleasant as one might wish.

I stopped to look like the rest, of course,
And the beast's eyes levelled mine;
His short tail thumped with a feeble force,
And he uttered a tender whine.

It was Rags, yes, Rags! who was martyred there,
Who was quartered and crucified,
And he whined that whine which is doggish prayer
And he licked my hand and died.

And I was no better in part nor whole
Than the gang I was found among,
And his innocent blood was on the soul
Which he blessed with his dying tongue.

Well I've seen men go to courageous death
In the air, on sea, on land!
But only a dog would spend his breath
In a kiss for his murderer's hand.

TRIBUTE TO HENRY FONDA

The Hon. TREVOR KHAN [12.54 a.m.]: Tonight I speak on something that is perhaps a little less contentious than some of the matters I have addressed in this place in the past. It is time to reminisce about the influence of a man, an actor, whose roles in two films in particular have had a lasting influence upon me. That actor is Henry Fonda, who died on 12 August 1982. It really is quite amazing to think that his passing was so long ago. His first role I remind members of is that of Lieutenant Doug Roberts on board USS *Reluctant*. At least some members may remember his battles with Commander Morton, played by James Cagney, as well as his mentoring role of Ensign Frank Pulver, played by Jack Lemmon.

It was Fonda's essential decency, his care for the common sailor and his preparedness to sacrifice his own reputation to advance the interests of the crew that was so compelling. Of course the movie's most moving scene was the one in which Henry Fonda did not appear. It is the scene where the ship's doctor, played by William Powell, reads from a letter telling him that Lieutenant Roberts was killed in a kamikaze attack whilst serving on the *Livingston* off Okinawa. It was a moment of grief and loss.

The second movie that I wish to remind members of remains compelling to this day. It showed not only Fonda's humanity but also his quiet persistence and persuasiveness. The movie I speak of is *Twelve Angry Men*. Henry Fonda not only acted in that movie but also co-produced it. It was a movie about a man of conscience, a man who at first stands alone in the jury room against other jurors who have made up their minds to convict a young man of murder. Fonda's character is prepared to hold his ground, and through quiet reasoning he persuades others that the view they hold is based upon prejudice and quick judgement.

That movie has influenced me throughout my life. It resonates each and every day of my life. It resonates today. It is a movie that illustrates the point that you must hold true to your essential values and shows that respectful argument can be productive. I honour Henry Fonda—a fine man, a great actor. I also honour his film roles, particularly those of Roberts and Juror No. 8. Many of us who stand in this and other parliaments would do well to think about his roles, the characters he played, and the honour and courage that he demonstrated.

INDONESIA

The Hon. WALT SECORD (Deputy Leader of the Opposition) [12.58 a.m.]: My parliamentary recess visit to Australia's significant economic, trade and diplomatic partner Indonesia was timely as it occurred during Ramadan. With more than half of the world's Muslims living in Asia, at 250 million people Indonesia is the most populous Islamic nation. Like Australia, Indonesia is multi-faith, but the percentages are largely reversed with religions such as Christianity being in the minority. The true test for a democratic State is how it treats, respects and if necessary protects minorities within the country.

Experiencing being in a minority provided an interesting perspective on current concerns about the widening tensions between the West and Islam. What I found fascinating was the interplay and internal conflict in Indonesia as it navigates its way as a contemporary secular democratic Islamic nation. It is disappointing to see that, according to a Lowy Institute study, the Australian public's feelings towards Indonesia have cooled to the lowest point in eight years. I believe that as Australians we have an interest in engaging with Indonesia. We are also interested in countering any radicalisation of Islam, and so are the Indonesians.

What I saw in Indonesia is a nation navigating traditional morals, the *Koran*, and tourism, amid a rapidly growing middle class and a need to protect and show genuine tolerance towards ethnic and religious minorities like Balinese Hindus, Christians and the Chinese. While across the region we see countries becoming more conservative, we also saw the Indonesian Government looking outward in some respects. It is considering relaxing laws on foreigners buying property, particularly in Jakarta, and has recently committed to becoming one of the top 10 countries contributing to United Nations peacekeeping operations. However, it is also grappling with its past and trying to re-establish a truth and reconciliation commission into the Suharto regime.

On the other hand, there were also moves to restrict the sale of alcohol and a State university is now asking students to prove they can recite the entire *Koran* before they graduate. Unfortunately, we also face trade challenges like the permit allocation system for the importation of live cattle, and have mourned the executions of Myuran Sukumaran and Andrew Chan. My views on the death penalty are well known and are on the public record. However, by and large I believe that Indonesia remains a nation trying to counter extremism. This is reflected even at the grass roots, with Indonesian villages posting signage stating that the village's youth officially reject ISIS. I saw one such sign at Desa Pejeng Kawan, a tiny village of 1,000. It is important to keep this in context as the overwhelming majority of residents in the province are Balinese Hindu.

Like all nations, Indonesia is grappling with extreme individuals, with 500 Indonesians leaving to join ISIS. However, the impression I gained was of a nation trying to successfully navigate Islam and the west. This was reinforced during my official tour of Jakarta's Independence Mosque, the largest place of worship in South-east Asia with a capacity of more than 120,000 people. It has hosted United States Presidents Barack Obama and Bill Clinton and remains a powerful symbol of an Islam that can fit within Western democracy. Over the past 25 years, in various capacities I have visited many mosques in Australia and abroad. They include Istanbul's Blue Mosque, the historic Mulla Afandi Mosque in Iraqi Kurdistan, and the beautiful Jumeirah Temple and Sheikh Zayed Mosque in Dubai. In Jakarta I also visited the Indonesian National Museum, the Dutch colonial part of Jakarta known as old Batavia, and the Jakarta Catholic Cathedral, which was overflowing with Sunday worshippers. It is located directly across the street from the Independence Mosque. The juxtaposition of the two faiths did not escape me.

Elsewhere, I visited a half dozen major ancient Hindu temples including the UNESCO-designated Tirta Empul Temple, where locals engage in water purification ceremonies, and the Gunung Kawi temple, a magnificent eleventh century temple complex with 10 rock-cut shrines. In addition, I spent a day at the Mother Temple of Besakih, the largest and holiest temple of the Balinese Hindu religion in Indonesia. It is a truly spectacular complex of 23 separate but related temples that are at least 2,000 years old. I was also privileged to be one of two foreigners at a religious procession and ceremony in the village of Desa Pejeng Kawan.

Finally, it was a sad honour to visit ground zero at Kuta in Denpasar where 202 people, including 88 Australians, were murdered on 12 October 2002. I immediately recognised names on the monument from my days as a senior staffer to Premier Bob Carr. Out of respect for the families, I will not name them, but I recall our office assisting the family members desperately trying to recover the remains of their loved ones. It is a weekend I will never forget. For the record, I paid for all my flights and accommodation. There was no cost to the taxpayers. I thank Sydney's Indonesian Consulate for arranging the English-language tours of the national museum and the national mosque. I thank the House for its consideration.

WATERMARK COALMINE

Mr JEREMY BUCKINGHAM [1.03 a.m.]: On 26 February 1937, United States President Franklin Delano Roosevelt wrote to all United States Governors about the need for uniform soil conservation laws. In that letter he stated:

A nation that destroys its soil destroys itself.

Now, 75 years later, that sentiment, that maxim has never been more important. In an age of climate change, increasing food insecurity and rising population, it has never been more important to maintain, protect, conserve and restore the fragile soils that feed us all and provide such magnificent bounty. Tonight I will address that issue and the utter failure of The Nationals to stand up for farmers and the State and national interest and stop the 268 million tonne Chinese Government owned open-cut coalmine at Watermark in the heart of this State's food bowl in the Liverpool Plains.

Members opposite have said that this mine is not part of the Liverpool Plains—that it is not on the flood plain and that it is not on the best soil. That is absolute rubbish. To say that you can mine Watermark and rip the guts out of it is like saying that you can remove an organ from the human body and expect the rest of the body to function properly. It is interconnected; it is interdependent. It is absolutely fundamental to the productivity and the sustainability of the region that this mine does not go ahead. It will not go ahead. The people there will stop it. The people of New South Wales have said overwhelmingly that they will stand with Liverpool Plains Youth, the Carroona Coal Action Group and the Upper Mooki Landcare Group and stop this in the courts, through civil disobedience or by throwing out a government that does not stop this mine.

What have The Nationals done? Nothing. It is a case of could have, should have, would have, but did not. What could they have done? First, they could have declared the Liverpool Plains State significant agricultural land, where coalmining is prohibited under schedule 2 of the State Environmental Planning Policy (Rural Lands) 2008. But they did not. Secondly, they could have passed specific legislation to make the Liverpool Plains off limits to coalmining. But they did not. Thirdly, they could have supported The Greens' Responsible Mining (Protecting Land, Water and Communities) Bill 2014, which introduced no-go zones for productive agriculture land like the Liverpool Plains. They promised to do that but did not.

Fourthly, they could have designated the whole of the Liverpool Plains as biophysical strategic agricultural land [BSAL] under the Strategic Regional Land Use Policy and ensured it was protected from coalmining. But they did not. Fifthly, they could have cancelled Shenhua's exploration licence under section 125 (1) (b1) of the Mining Act after a breach of its licence conditions was found to be a significant risk in 2012. But they did not. Sixthly, they could have cancelled Shenhua's exploration licence by determining that the land is required for a public purpose under section 125 (1) (e) of the Mining Act and paid compensation for the mining improvements on the land. But they did not.

They could have negotiated a licence buyback with Shenhua by repaying it the \$300 million in dirty money negotiated by Ian Macdonald. But they did not. They could have ensured the mine had to pass through the mining and petroleum gateway process and included a gate in the gateway so that the mine could be rejected if it did not meet the necessary conditions. But they did not. They have done absolutely nothing. They have been mute. They have tried to walk both sides of the street. The people of New South Wales will hold them to account. I have heard more hollering from them tonight on workers compensation than on this issue.

The Hon. Duncan Gay: Shenhua.

Mr JEREMY BUCKINGHAM: The Hon. Duncan Gay used to yell out "Shenhua" all the time when he thought it was a joke. But it is The Nationals Party that is the joke. This will be written in the epitaph of The Nationals. This is the moment when The Nationals abandoned the values they came to this place to uphold, first as the Country Party and then as the National Party. In his contribution the Hon. Trevor Khan reflected on this. The Nationals members should reflect on the values they have abandoned. They did not have the guts to stand up to the Liberal Party. Kevin Anderson and Kevin Humphries have said they back the mine and the mine will be fine. The mine will never happen. The Nationals will tear the heart out of our farming country over my dead body. A country that destroys its soil destroys itself. The young farmers out there will not let The Nationals do that. The people of New South Wales will not let The Nationals do it. As Barnaby Joyce said, this is madness. We will stop it all, or we will stop the Liberal-Nationals Government.

HAWKESBURY CAMPUS ALUMNI CHAPTER LUNCH

The Hon. RICK COLLESS (Parliamentary Secretary) [1.08 a.m.]: I inform Mr Jeremy Buckingham that I have 28 years' experience of soil conservation, and he does not. On a far more important note than the rant we have just heard, on Friday 24 July 2015 the Hon. Niall Blair, MLC, Minister for Primary Industries, and I were delighted to host the third annual Hawkesbury Campus Alumni Chapter Lunch in the Strangers Dining Room. We are both very proud graduates of the Hawkesbury Campus of the University of Western Sydney—when I attended the campus was in transition from the Hawkesbury Agricultural College to the University of Western Sydney, Hawkesbury Campus.

Minister Blair is only the second graduate of the Hawkesbury Agricultural College to hold the portfolio of Minister for agriculture or primary industries. As far as I can ascertain, it is the first time in the history of this Parliament that both the Minister and his Parliamentary Secretary have been graduates of the Hawkesbury campus. The first graduate of Hawkesbury campus to become Minister for Agriculture was Bill Chaffey, the former member for Tamworth and the person after whom Chaffey Dam is named. He was the Minister between 1965 and 1968.

Some 140 former graduates of Hawkesbury, in its various configurations, attended the lunch, including another member of this Parliament, Dr Geoff Lee, who studied horticulture. The Hon. Paul Green, MLC, is also a graduate of Hawkesbury, studying nursing long after my time there. The most important table at the lunch was called "The Table of Legends". At this table were seated former staff members Bruce Braithwaite and George Bennett, who graduated from the college in 1943, and two graduates from 1940—Bob Adcock, now aged 93, and Max Woods, who on 25 March this year celebrated his 100th birthday. Members may recall that I spoke about Max Woods following his ninety-ninth birthday last year. It was an absolute honour to host this year's lunch in front of a Hawkesbury centenarian and two former students who graduated 85 years ago.

I have known Max since 1987, when I worked with him on a number of natural resource management programs in the New England region between 1987 and 2000, and his contribution to this field was the subject of my speech last year when Max turned 99. Max Woods has contributed an enormous amount to natural resource management in New South Wales. He is a true conservationist and someone of whom all associated with the Hawkesbury campus can be proud. Bruce Braithwaite was the deputy principal at the Hawkesbury Agricultural College while I was there between 1971 and 1973, and he served the college extremely well for many years.

George Bennett graduated in 1943 and returned to the college some years later as the manager of practical training. During the time I was there each student did one day a week of practical training on the college farm, where we were trained in activities such as shearing, tractor driving, machinery maintenance, fencing, milking, calf castration and branding, horse breeding, haymaking and all other activities that are normally carried on a working farm. It was George's job to make sure that all students had a fair go at all the different activities during their three-year tenure at Hawkesbury, and he did it very well. All the former students at the lunch had many stories to relate about what a wonderful job George Bennett did in that role. There were also people there from the other end of the age spectrum—current students in their early twenties who are committed to carrying on the philosophy and traditions of the values that were so important to people like Bob Adcock and Max Woods in 1940, and remained important to those of us who graduated in the 1960s and 1970s, and also to later generations of graduates like Niall Blair, Geoff Lee and Paul Green, who graduated in the 1980s and the 1990s.

A highlight of the lunch was a panel session during which five former female students talked about their experiences at the college. Female students are a relatively recent addition to Hawkesbury: 1971, when I commenced my studies at the college, was the first year that women were admitted to the agriculture course and one of my classmates, Anita de Lamotte, was on the panel. These ladies spoke about the challenges they faced as a very small number of young women in a very blokey environment in the early 1970s. Looking back at those days, it is a credit to all the women who were students at that time. They were all strong, capable women, and they remain so today. They are a credit to the long-term traditions and philosophies that are so important to all graduates of the college. The lunch will be held again sometime in July next year, and I commend the event to all Hawkesbury campus graduates, irrespective of the course they undertook or the year in which they graduated.

HIROSHIMA AND NAGASAKI ATOMIC BOMBINGS SEVENTIETH ANNIVERSARY

The Hon. SHAOQUETT MOSELMANE [1.13 a.m.]: A few years ago my family and I visited Hiroshima. It was astonishing to see the devastation caused by the bomb dropped on 6 August 1945 during

World War II. An American B29 bomber dropped the world's first deployed atomic bomb over the Japanese city of Hiroshima. The explosion wiped out 90 per cent of the city and immediately killed 80,000 people; tens of thousands more would die later of radiation exposure. Three days later, a second B29 dropped another atomic bomb on Nagasaki, killing an estimated 40,000 people. Japan's Emperor, Hirohito, announced his country's unconditional surrender in World War II in a radio address on 15 August, citing the devastating power of a new and most cruel bomb—a devastating bomb from which the Japanese have suffered since World War II. Millions of innocent people died in World War II and hundreds of thousands died in Nagasaki and Hiroshima. I wish one day the world would rid itself of all nuclear weapons.

[Time for debate expired.]

Question—That this House do now adjourn—put and resolved in the affirmative.

Motion agreed to.

The House adjourned at 1.15 a.m. on Thursday 13 August 2015 until 9.30 a.m. on the same day.
