

# LEGISLATIVE COUNCIL

Tuesday 14 November 2000

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**The President (The Hon. Dr Meredith Burgmann)** took the chair at 2.30 p.m.

**The President** offered the Prayers.

**The PRESIDENT:** I acknowledge that we are meeting on Eora land.

## ASSENT TO BILLS

Assent to the following bills reported:

Legal Profession Amendment (Incorporated Legal Practices) Bill  
Industrial Relations Amendment (Council Swimming Centres) Bill

## AFFIRMATION OF ALLEGIANCE

The Hon. G. S. Pearce and the Hon. I. W. West took and subscribed the affirmation of allegiance and signed the roll.

## BILL RETURNED

The following bill was returned from the Legislative Assembly without amendment:

Industrial Relations Amendment (Council Swimming Centres) Bill

## INDEPENDENT COMMISSION AGAINST CORRUPTION

### Report

**The President** tabled, in accordance with the Independent Commission against Corruption Act 1988, the report entitled "Rebirthing motor vehicles: Investigation into the conduct of staff of the Roads and Traffic Authority and others", dated November 2000, received out of session.

**The President** announced that she had authorised that the report be made public.

## NEW SOUTH WALES COMMISSION FOR CHILDREN AND YOUNG PEOPLE

### Report

**The President** tabled, in accordance with the Children (Care and Protection) Act 1987, the annual report entitled "NSW Child Death Review Team 1999-2000 Report", received out of session.

**The President** announced that she had authorised that the report be made public.

## DISTINGUISHED VISITOR

**The PRESIDENT:** I announce the presence in the President's gallery of Ian McCartney, United Kingdom Special Minister of State.

## TABLING OF PAPERS

**The Clerk** announced the receipt of the following annual reports forwarded in accordance with the Annual Reports (Statutory Bodies) Act 1984:

Fish River Water Supply, for the period 1 January 1998 to 1 June 1999  
Wild Dog Destruction Board, for the year ended 31 December 1999  
New South Wales Dried Prune Industry Marketing Order, for the period 1 January 1999 to 31 March 2000  
Building and Construction Industry Long Service Payments Corporation, for the year ended 30 June 2000  
Dams Safety Committee, for the year ended 30 June 2000

**Ordered to be printed.**

**STANDING COMMITTEE ON STATE DEVELOPMENT****Report: Inquiry into Road Maintenance and Competitive Road Maintenance Tendering**

**The Clerk** announced the receipt, pursuant to the resolution of the House of 25 May 1999, of report No. 22 entitled "Inquiry into Road Maintenance and Competitive Road Maintenance Tendering", dated November 2000.

**The Clerk** announced that, pursuant to the resolution, he had authorised that the report be printed.

**The Hon. A. B. KELLY** [2.42 p.m.]: I move:

That the House take note of the report.

**Debate adjourned on motion by the Hon. A. B. Kelly.**

**PETITION****Windsor Women's Prison**

Petition praying that construction of a women's prison at Windsor be abandoned, that the funds be channelled into research to assist girls and adolescent and adult women at risk of offending, and that social programs on crime prevention be introduced, received from the **Hon. R. S. L. Jones**.

**FEDERAL COURTS (CONSEQUENTIAL PROVISIONS) BILL****Second Reading**

**The Hon. M. R. EGAN** (Treasurer, Minister for State Development, and Vice-President of the Executive Council) [2.45 p.m.]: I move:

That this bill be now read a second time.

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

**Leave granted.**

This bill amends a number of State Acts so as to omit provisions that purport to confer State jurisdiction on Federal courts. It also makes minor amendments to the Corporations Act which are consequential on changes made to the Corporations Law by Commonwealth legislation. There are several State-Commonwealth schemes which provide for Federal courts and tribunals to exercise State jurisdiction. Of these, the Corporations Law scheme has attracted most public attention in recent years. In *re Wakim; ex parte McNally* (1999) 163 ALR 270 (*re Wakim*), the High Court considered whether arrangements in State laws to confer jurisdiction on Federal courts were valid. The court concluded that only the Commonwealth could confer jurisdiction on a Federal court as a matter of the interpretation of the Constitution. The decision meant that arrangements in these schemes for the exercise of jurisdiction by the Federal court were inoperative because the source of the jurisdiction was a law of the State.

Following the decision in *re Wakim*, all States enacted legislation to validate decisions which were found to be invalid as a result of that decision. This legislation was developed through the Standing Committee of Attorneys-General or SCAG. The New South Wales Parliament passed the Federal Courts (State Jurisdiction) Act 1999 which commenced on 9 July 1999. Attention is now being directed to those provisions in State Acts which are inoperative because of *re Wakim*. This bill will amend the State Acts which established schemes to confer State jurisdiction on Federal courts. It will remove or amend these inoperative provisions. The bill amends the Agricultural and Veterinary Chemicals (New South Wales) Act 1994, the Competition Policy Reform (New South Wales) Act 1995, the Co-operatives Act 1992, the Corporations (New South Wales) Act 1990, the Gas Pipelines Access (New South Wales) Act 1998, the Jurisdiction of Courts (Cross-vesting) Act 1987, the National Crime Authority (State Provisions) Act 1984, and the Price Exploitation (New South Wales) Act 1999.

The bill is modelled on legislation which was developed through SCAG and has been enacted in Victoria. The bill also makes minor amendments to the Corporations Act which are consequential on changes made to the Corporations Law by Commonwealth legislation. This bill does not deal with the major issue of the future regulation of corporations. It merely makes minor changes which are consequential on the decision in *re Wakim*. I commend this bill to the House.

**The Hon. J. M. SAMIOS** [2.46 p.m.]: As a result of the decision in *re Wakim ex parte McNally* 1999 the High Court considered whether arrangements in State laws to confer jurisdiction on Federal courts were valid as stated by the Minister in the lower House. The court concluded that only the Commonwealth could confer jurisdiction on a Federal court as a matter of interpretation of the Constitution. As a result of that decision, schemes for the exercise of jurisdiction by the Federal Court now are inoperative. Consequently, this

bill will amend a number of State Acts so as to omit provisions purporting to confer State jurisdiction on Federal courts. The Opposition does not oppose the Federal Courts (Consequential Provisions) Bill. We have long supported the principles of cross-vesting between State and Federal court jurisdictions. It may be said that the Wakim decision has been unfortunate in that it has terminated many years of successful co-operative federalism through the court processes, as indicated by Mr Hartcher in the lower House.

The Coalition will support any constructive initiative that will ensure that cross-vesting between State and Federal courts can be reinstated in some way. This bill will amend the State Acts that established schemes to confer State jurisdiction on Federal courts. It will also remove or amend inoperative provisions. A number of Acts will be amended as a result of this bill, including the Agricultural and Veterinary Chemicals (New South Wales) Act 1994, the Competition Policy Reform (New South Wales) Act 1995, the Co-operatives Act 1992, the Corporations (New South Wales) Act 1990, the Gas Pipelines Access (New South Wales) Act 1998, the Jurisdiction of Courts (Cross-vesting) Act 1987, the National Crime Authority (State Provisions) Act 1984, and the Price Exploitation (New South Wales) Act 1999.

The bill also makes minor amendments to the Corporations (New South Wales) Act and has been modelled on legislation which was developed through the Standing Committee of Attorneys-General and which has been enacted in Victoria. The initiative taken to remedy the situation is welcomed by the Coalition parties in anticipation that the stability that had been given to cross-vesting jurisdictions will now be replaced appropriately by the tenure of this bill.

**Reverend the Hon. F. J. NILE** [2.51 p.m.]: The Christian Democratic Party supports the Federal Courts (Consequential Provisions) Bill. The bill will amend various Acts to omit inoperative provisions that purport to confer State jurisdiction on Federal courts. The 1999 decision of the High Court of Australia in *re Wakim ex parte McNally* found that arrangements in State law to confer jurisdiction on Federal courts have certain problems. The court concluded that as a matter of interpretation of the Constitution only the Commonwealth could confer jurisdiction on the Federal Court. That is, States could not confer jurisdiction on the Federal Court; it could be done only by the Commonwealth. For that reason the bill is necessary. All States will enact legislation to validate provisions that were found to be invalid as a result of the High Court decision. Attention has now been directed to those provisions in State Acts that are inoperative because of the Wakim case. The bill will amend the State Acts establishing the schemes to make changes or remove or amend inoperative provisions. I support the bill.

**The Hon. I. M. MACDONALD** (Parliamentary Secretary) [2.52 p.m.], in reply: I thank honourable members for their very positive comments and I commend the bill to the House.

**Motion agreed to.**

**Bill read a second time and passed through remaining stages.**

## **FISHERIES MANAGEMENT AND ENVIRONMENTAL ASSESSMENT LEGISLATION AMENDMENT BILL**

### **Second Reading**

**Debate resumed from 2 November.**

**The Hon. JENNIFER GARDINER** [2.54 p.m.]: The Fisheries Management and Environmental Assessment Legislation Amendment Bill has been long awaited, especially some of its provisions. Some of the key stakeholders have waited half a decade. Part of the Government's agenda in bringing in a saltwater fishing licence had been long expected and long denied by the Minister for Mineral Resources, and Minister for Fisheries. But the agenda of the Government in relation to its fisheries management legislation is now on public display, and it has been greeted with dismay in many quarters. The New South Wales Opposition is very disappointed about many aspects of the bill. I am happy to place on record at the outset that we will oppose the general recreational licence fee. But stakeholders are very concerned about and oppose other parts of the bill.

I will go through the rhetoric in the Minister's second reading speech as a way of analysing what is in the bill. The Hon. Edward Moses Obeid started by saying that the bill will "guarantee best practice management of the community-owned fisheries resource". Many stakeholders question that opening statement. In fact the quote does not resonate with any of the interest groups with whom I have spoken about the contents of the bill.

The Minister said that it will give us the most accountable and transparent fisheries management framework in Australia. Again, that claim does not resonate with the real world. Unfortunately, there are flaws in the bill that do not lend credence to the claim. The lack of transparency and failure in clear communications on fisheries issues since the Carr Government came to power have poisoned the atmosphere leading up to this debate. That is a tragedy. It is a tragedy not just for the livelihoods of many of the people affected by fisheries management legislation; it is also a tragedy for the fisheries resource itself.

The Minister said that the bill means better recreational fishing, better tourism and a more stable commercial fishing sector. People in various parts of coastal New South Wales dispute that there will be better recreational fishing. They have plainly said that the bill does not contain anything for them. The claim that it will be better for tourism is contradicted by various tourist organisations. They claim that the licence fee on anglers could have a detrimental effect on tourism, not the effect predicted by the Minister. I have not heard anyone in the commercial fishing sector agree with the claim that the bill will lead to a more stable commercial fishing sector. Has anyone in this House noticed any ecstasy in the face of anybody in the commercial fishing sector as a result of reading this bill? No.

**The Hon. D. F. Moppett:** More like a death-like pall, I would say.

**The Hon. JENNIFER GARDINER:** That probably sums it up. It is a very depressing bill in many respects. Even though the commercial fishing sector has got used to being depressed in the time the Carr Government has been in office, this bill was seen as another nail in the coffin. The Minister said that the bill is good news for the thousands of coastal businesses that rely on our fisheries resource. He claimed that it would mean more jobs, more economic activity in the regions and a more secure fishing future. Again, I do not know of any community leader in coastal New South Wales who would agree with that statement. There is a lot of concern about the implications of some aspects of the bill from some of the businesses that rely on the fisheries and tourist infrastructure. They greet the bill with dismay. The Minister made the point in the second reading speech in relation to the blue paper, the consultation paper published by the Premier and the Minister in January this year, that about 5,000 submissions were received from anglers to the review of saltwater recreational bank and size limits in 1999.

The Minister said that a number of submissions showed unsolicited support for a saltwater recreational fishing fee, although there was no mention in the paper of a fee. He did not say how many submissions were received. He also claimed that the vast number of anglers who attended a recreational fishing summit later in 1999 supported consideration of a general recreational fishing fee and the release of a discussion paper on the issue. However, many fishers are very angry about the way the Carr Government has portrayed and interpreted what transpired at that summit. The lingering question remains about what fishermen can say at meetings with the Carr Government and how that information will be interpreted by the world at large.

The Minister said that anglers supported in part the concept of a saltwater licence because of the successful reintroduction of the freshwater fishing fee. I have received representations from inland anglers who are positive about some aspects of the implementation of the inland fishing fee. However, such support is often tempered by requests for greater accountability of expenditure. Some constituents have said that they want more detail in the reporting of that expenditure from the Inland Freshwater Licence Trust Fund and less information on glossy coloured paper. The Minister said that all fee revenue will go into the recreational fishing trusts, that the revenue can be spent only on recreational fishing programs, and that anglers will advise on trust expenditure through a transparent committee process.

However, some of the details of these arrangements are left to the imagination. Because of the Minister's record on lack of consultation regarding a number of regulations under the Fisheries Management Act, many people are extremely concerned about how such a program would operate. The claim of transparency is also in question because of the level of distrust in New South Wales Fisheries, which has increased over the years. The Minister correctly said that in 1999 the Victorian Coalition Government, with Australian Labor Party support, successfully introduced a general recreational licence fee.

However, part of its success was due to the way the Victorian Government brought together professional fishermen and recreational fishermen in an endeavour to reach a consensus before rushing down the path of legislative change. It is interesting to note that even now in Western Australia that same management approach is being used by the Liberal-National Government as it comes to grips with the need for benchmark fisheries management legislation. The Carr Government has a bad record on consultation in a whole range of portfolios, yet it has chosen not to follow the same path. The Minister said that in January he and the Premier

launched the discussion paper entitled "Sustaining Our Fisheries", which put forward a strategy for revitalising our fisheries, underpinned by a proposal for a general recreational fishing fee. He said:

If we can generate revenue we can do more to make fishing better, improve our fish habitat and allow anglers to improve the management of their sport.

It is a pity that the Minister for Fisheries chose such a jumbled process to reach this point. At the same time as the Minister and the Premier released the discussion paper, their Cabinet colleague Mr Amery released his white paper on water reform in this State. That white paper led to submissions being invited and a draft exposure bill being produced. That white paper was laid on the table of the Legislative Assembly before the winter break, so all stakeholders had an opportunity from August to November to consider the draft exposure bill. This week the Legislative Assembly will debate that bill. There will be considerable consensus because the Government and the Opposition will support some core changes to the draft exposure bill that emerged following proper consultation throughout the State.

Draft exposure bill methodology was recently used by the Minister for Community Services, the Hon. Faye Lo Po', when she flagged the controversial Adoption Bill. She made it clear that the bill would not be debated until stakeholders and interested persons had had an opportunity to consider it, come to grips with its meaning and have their say on how it might be improved. In recent months in this House the former Attorney General, Mr Shaw, used the same methodology with a legal profession bill. There is a mountain of evidence to demonstrate that that type of consultation process, particularly with a bill that affects so many people and such an important resource, would have been the right way to go. But instead the Minister chose to charge like a bull in a china shop.

It is tragic that of all the words used in the debate about the best way to manage this State's fisheries resources, "consultation" is perhaps the most tainted. The Minister said that the great majority of those who took the time to prepare their own submissions supported the principle of a saltwater licence. He also noted, however, that there were many petitions to the so-called consultation process. Decision makers tend to give more weight to individually prepared and presented representations than to petitions. Nevertheless, the weight of numbers in response to the general recreational fishing fee is with the petitioners, the majority of whom opposed a recreational licence fee.

The Government has been inconsistent in its attitude towards signatures on petitions. For example, the biggest single petition to the so-called consultation process emanated from the Tweed Valley, where business expressed concern that it would be adversely affected by a licence fee being imposed on fishers on one side of the river but not on the other. Many visitors to the Tweed Valley and its coastline are Queenslanders who are seeking a more relaxed holiday than a typical Gold Coast holiday. The Government has heeded the petition from the Tweed, but not from others who simply oppose a licence fee. This indicates that the implementation of certain provisions in this bill will depend on which electorate is affected and in what way. The suspicion that bill will have a politically uneven impact has made many people edgy, to say the least. The Minister said:

I have travelled from the Tweed River to the far South Coast ... and the message was the same up and down the coast: "Give us the chance to make things better, let us help improve fishing and let us help make sure the mistakes of the past do not stop us having a future for our fisheries."

As the shadow Minister for Fisheries I have also travelled from the Tweed to Twofold Bay at Eden, and the message synthesised by the Minister for Fisheries is out of sync with what people are actually saying and why there is so much agitation about this bill. Many people say that the Carr Government's approach to fisheries policy is to pass the buck to the average punter, instead of getting on with carrying out its responsibilities with respect to coastal protection, restoring habitat and biting the bullet on a sustainable restructure of the commercial fishing industry.

It is easy for the Carr Government to use those words supposedly spoken by anglers, "Give us the chance to make things better. Let us help improve the fisheries." The anglers reply, "That is a poor responsibility of the Government. Why are you passing the buck to us?" Most anglers want a healthy fish resource for a whole variety of reasons. But many believe that the burden of that is a core government responsibility and they are very cynical about the way the Carr Government is opting out of that responsibility, as demonstrated by this bill.

Many of the representations that have been made to me specifically state that the revenue from the general recreational licence fee should not be used to rectify what have been referred to as past mistakes. I am sure that the Minister for Fisheries has received similar representations. Unfortunately, they have been ignored by the Carr Government. The Minister has said, "I have always had an open-door policy and have continued to

meet with angling, conservation and commercial fishing groups." The fact is that the Minister may have met with those groups but some felt the need to demonstrate repeatedly outside Cabinet meetings and outside this Parliament, and we are entitled to believe that those meetings did not have satisfactory outcomes. In fact, there was a demonstration today by recreational anglers who oppose the licence fee.

To have an open-door policy is one thing; to actually listen to what people are saying when they walk through the door and to heed what they have said is, of course, a different kettle of fish! The Minister's open-door policy has been an abysmal failure. Many stakeholders continue to ask the question: Why has the Premier not taken a keen interest in this natural resource management issue? What is it about the internal workings of the Australian Labor Party—of the Government—that sees the Cabinet burdened with a Minister with such a bad reputation across so many of the interest groups and in the community generally? All through the deliberations leading up to debate on this long-awaited bill that question was asked frequently. Some people know the answer and I suppose that, in the fullness of time, all will be revealed.

The Minister has also said that he met and consulted with the statutory advisory councils on recreational fishing, commercial fishing and conservation. Here again there is great angst about the way the Minister has chosen to represent the views of these bodies. Time and again interested parties have relayed stories of minutes of meetings taking ages to be relayed to members of these bodies, and concern about the lack of freedom of expression of members of these bodies who are to advise the Minister. They are obviously meant to represent the views of a certain constituency, so there is a gap between the message the Minister is getting and the action that transpires from that message.

The whole advisory structure set up by the Martin and Obeid regimes is flawed, and has been ever since Mr Bob Martin smashed up the Commercial Fishing Advisory Council [CFAC]. The Standing Committee on State Development, which was at the time chaired by a horrified Patricia Staunton, exposed the sham created by one of Mr Carr's fisheries Ministers, Mr Bob Martin. There is a consensus that the advisory bodies need overhauling so that information flows properly and people advising the Minister for Fisheries are unafraid to have openness and transparency as guiding principles in all their work on an advisory body. I assure honourable members that this bill does not make much headway in addressing that need. That is certainly one aspect that the Opposition will campaign on as we go into the next general election.

The bill provides for an all-water fishing licence fee. It proposes a fee of \$5 for three days of fishing, a fee of \$10 for a month's fishing, \$25 per annum and \$70 for those who pay for three years in advance. It also proposes a block fee for charter-boat and hire-boat operators and guides. The theory behind the block fee is that new anglers might be discouraged if a fee were imposed at the time they were first introduced to the sport of angling. The bill exempts children up to the age of 18 and holders of Commonwealth pension concession cards. Adults assisting and supervising children, where there is no more than one rod and line per child, will also be exempt under the provisions of this bill. There is a great deal of mirth around the traps when one talks about this provision relating to adults supervising children, and how it would be administered. Nobody really has much confidence about its operation.

The bill provides for the continuation of the exemptions for Aboriginal Australians in relation to freshwater fishing which were introduced in 1957. For saltwater fishers the bill provides that Aboriginal Australians fishing in accordance with native title rights or the registered native title claim will be exempt. However, Aboriginal groups have communicated some problems about the way the bill will affect them, and those problems will need to be addressed later in the debate. The Carr Government's shameful slothfulness in producing an indigenous fishing strategy is a blot on the record of both Dr Refshauge and the Minister for Fisheries. The duck-shoving on this issue was exposed years ago by the Standing Committee on State Development. A draft strategy on indigenous fishing was supposedly in the making way back then. This bill has been introduced into Parliament but the indigenous fishing strategy is still being drafted and indigenous fishers are up in arms about its non-appearance.

The Minister claimed that all the money from the fee will go into dedicated trusts and that moneys from the trusts can be used only for recreational fishing programs. Of course, one of the major problems with the bill is that those words are very ambiguous and no-one really knows what would be the end result of expenditure from the trust fund, what the programs would be and the priority that would be given to them. Many of those who supposedly support the general recreational fishing licence fee are concerned about the priority that would be given to their particular pet projects—or not given to them. The Minister proposes the establishment of a committee of anglers to advise on saltwater trust expenditure. We know that in respect of a number of these proposed bodies, the Minister jumped the gun and advertised the closing dates for expressions of interest for such bodies before the bill was even debated in this House.

That has further underscored the cynicism on the part of many stakeholders about the Government's long-term agenda; the suspicion that the Government has had this program all wrapped up and that this bill was drafted a long time ago. All along, and throughout this year to date, there has been widespread suspicion that the Carr Government wanted to introduce this licence and at the same time cut the New South Wales Fisheries budget, and that the so-called consultation process was a sham. I was at the Sydney Fish Markets earlier this year when the Director of Fisheries, Mr Dunn, admitted to commercial fishers gathered there that he would have to get out the begging bowl if the recreational licence fee did not get through this Parliament. These suspicions about what the real agenda is have been confirmed and, as I said, some of the preparations for implementing such a licence fee were exposed on the New South Wales Fisheries web site before members of this Parliament had an opportunity to even consider the bill.

The Minister said that the current levels of revenue of the freshwater trust will be maintained for the next five years and that after that time the revenue will be split between the freshwater and saltwater trusts based upon the best available information about angling patterns and activities, and in full consultation with angling groups. Those words have caused alarm bells to ring in some inland angler circles. The words "in full consultation with angling groups" ring hollow because of the failure of the Carr Government, through the Minister for Fisheries, to pack the word "consultation" with any real meaning.

The Minister said also that there was a high level of support amongst anglers for the fee revenue to be spent on commercial fishing buyouts, but only when there was a benefit for recreational fishers. Again, there is a lot of room for diverse interpretation of the words contained in the Minister's second reading speech. As I noted earlier, many anglers do not want licence fee revenue to be spent on what they describe as past mistakes. The Amateur Fishermen's Association said that the bill does not address the major fish management issues that were specified in the November 1997 report of the Standing Committee on State Development. That report recommended that the bill and the licence proposal be abandoned, and that the Government develop a coastal and in-shore waterways rejuvenation scheme which would integrate and co-ordinate the activities of all government departments, including those which cover fisheries, waterways, sewerage, local government and industry, with the aim of improving the quality of coastal and in-shore waterways for the benefit of all dependent life forms and the general public.

The Amateur Fishermen's Association of New South Wales, which was established in 1895, stated that a petty licence, or a leisure tax, will not raise the funds required for the implementation of rejuvenation schemes for all estuary systems in New South Wales. It said that there is evidence of widespread and growing community opposition to the proposed licence. The association criticised the proposed licence fee and claimed that client compliance costs would be funded through licence payments, and that those who complied with the licence would fund those who did not. The association was worried also that fines for non-compliance would not go towards recreational fishing but straight to consolidated revenue.

The association said that there was no match between funds raised through the licence and the various projects listed for implementation. The projects listed in the Minister's announcement are a fanciful wish list. The association also pointed out that there is no indication of co-ordination with other departments, including the Waterways Authority and the Department of Sport and Recreation. It was concerned about licence anomalies across the borders of States adjacent to New South Wales. The association claimed that State Fisheries, through the licence proposal, is isolated from other government agencies, notwithstanding the fact that commercial and recreational fishing are not the only activities to have an impact on fish populations.

A whole-of-government coastal waterways scheme is required to rejuvenate and sustain dependent habitat and life forms and for the benefit of the general public. Together with other interested parties, the association doubts that the proposal will benefit regional New South Wales. It claims that the number of visitors to coastal communities may decrease with the introduction of a general recreational fishing licence. The methodology for sorting out the projects to receive funding from the trust fund is very important. Unfortunately, the Government's plan seems very rubbery; and this uncertainty is one of the big problems with the bill.

The notion of recreational fishing areas and the way they would be designated switched on alarm bells up and down the coast immediately it was revealed by way of Cabinet documents. It is interesting that the follow-up revelation was made just after the closing ceremony of the Sydney Olympics. As the Opposition predicted in this House prior to the Olympic Games, the Games were used as a cover for the announcement of a fishing licence fee. The Olympics were also used as a cover for the remainder of the bill. The vague outline of a supposed public consultation process leading up to the determination of recreational fishing areas and the reallocation of the fishing resource from one sector to another is another feature of the bill that is suspect.

The placatory noises made by the Minister for Fisheries and the Director of New South Wales Fisheries in relation to closures of commercial fisheries in the Clarence region naturally led some stakeholders to conclude that the process envisaged by the bill was not equitable in different parts of the State. On day one it was feared that transparency had already given way to political partiality—even before the bill had been introduced into Parliament. Throughout this whole debate the Carr Government has been obsessed with closing Lake Macquarie and Botany Bay to commercial fishers, one way or the other, and that was confirmed by the Minister in his second reading speech.

For example, the Minister's speech was in contradiction to the Premier's task force on Lake Macquarie and was contradicted by some recreational fishers in relation to Botany Bay. Those recreational fishers made representations to me to the effect that there is still some room in Botany Bay for certain types of commercial fishing at certain times of the day and in certain seasons. Recreational anglers in that part of Sydney would be happy to continue fishing, but it seems that their sensible suggestions are to be put to one side. The Government proposes a round-table discussion to consider many issues. However, many of those structures are not included in the legislation but are left to the regulations. As I said earlier, the Minister has a poor record when it comes to consulting on regulations.

The Minister said that the Government would make an advance against future fee revenue to enable recreational fishing areas to be introduced at sensible time frames. It would be interesting if the Treasurer would tell the House what advance he is prepared to make or what commitment he has made. I know that many stakeholders do not believe that the Treasurer has agreed to a figure. Again the bill does not stack up with people's perception of the reality. Many figures have been bandied around as to what amount would be necessary to effect, for example, reasonably extensive commercial buyouts. The questions must be asked: Have those figures been cleared by Treasury? Is the money forthcoming? The Minister said:

To achieve the necessary reduction in commercial fishing adjustment to benefit recreational fishing, affected commercial fishers who have most of their fishing entitlements in a proposed recreational fishing area and have catch history in that area, will be offered a compensation package. If too many fishers wanted to take the compensation package, the fishing businesses bought would be those that offered the best value for money for the trust.

I would like to know what that means. He also said:

It will be necessary to buy back sufficient businesses to ensure two things: First, that each recreational fishing area is implemented in full within the nominated timeframe; and, second, to ensure that commercial fishing effort does not simply transfer from one area to another.

The Minister made it quite clear that for that reason the Government cannot guarantee that there will be no compulsory buybacks of fishing entitlements, but it does guarantee that fair compensation will be paid for any fishing entitlements cancelled as part of the process. I have asked a lot of questions about whether the Government would insist on compulsory buybacks. The Government has refused to give an honest answer to my questions. It is now saying it cannot guarantee that there will be no compulsory buybacks and, philosophically I guess, many people find that reprehensible. We now know why the Minister did not rule out compulsory buybacks when he was repeatedly questioned in this House on the issue. The Carr Government has always had compulsory buyouts on its agenda, even in defiance of the Premier's task force on Lake Macquarie, which advocated only voluntary buyouts. The zeal for confiscation of property rights that we have seen exhibited by the Wran and Carr governments is still on exhibition today by virtue of the bill.

Another major feature of this bill relates to the environmental assessment of fisheries. This part of the bill is so contentious that every known stakeholder wants to chuck out the version in the Minister's bill and have it rewritten. I do not know of anyone who supports this part of the bill. There are a number of reasons for this. One reason is that the Minister for Fisheries and, unfortunately, his department have generated such widespread suspicion that no-one trusts that agency to conduct the required environmental assessments. For many months many stakeholders have made it plain that they want independent environmental assessments, that is, independent of New South Wales Fisheries.

The Minister has refused to heed their calls, so he risks the loss of this part of the bill. Many members of this House, including all Liberal Party and National Party members, support the calls for independent assessments. Indeed, we support the creation of a dedicated fisheries resource assessment council—the chair of which is to be appointed by the Premier—representing the whole range of stakeholders in this precious resource. I understand that a number of Government members are also unimpressed with the Minister's bill, at least in this regard. I hope that their hands will go up when those particular amendments are debated.



While I address this issue of environmental assessments of fisheries let me divert for a few minutes from the Minister's second reading speech to place on the record of the House the sleazy tactics that the Minister for Fisheries is prepared to employ to try to confuse people and bludgeon them to his way of thinking. It is a matter of public record that I gave notice of a motion to disallow the interim regulation that was gazetted by the Minister to cover for his failure to adhere to the requirements of the Environmental Planning and Assessment Act in relation to environmental assessments of the impact of commercial fishing licences.

Simultaneously, both the Hon. Dr A. Chesterfield-Evans and I gave notice of private members' bills which were designed to provide a legislative floor to the environmental assessment process if the disallowance motion were to be carried by the House. This was necessary to ensure that the impact of the Land and Environment Court case decision—that is, the need to environmentally assess each and every commercial fishing licence individually—was avoided. The legislative floor proposed by both the Australian Democrats leader and the Opposition was designed to ensure such assessments would be conducted independently of New South Wales Fisheries and on a fishery-by-fishery basis. The need to assess licences on a one-by-one basis would be obviated. That was plain, and all the work that has gone on since then by various members of this House—except for Australian Labor party members, who have remained silent—has been directed towards that sensible end.

**The Hon. Dr B. P. V. Pezzutti:** Why is the honourable Minister silent on that one? He is not even listening. That is the sort of consultation we expect. He is there but he does not listen. He listens but he does not hear. He looks but he does not see.

**The Hon. JENNIFER GARDINER:** That is right, I agree with the Hon. Dr B. P. V. Pezzutti. The Minister, however, embarked on a futile and dishonest campaign, sending astonishing faxes to fishers saying that they would have their licences cancelled merely because the Hon. Jennifer Gardiner had given notice of a motion to disallow an interim regulation. It is another reason why the reputation of this Minister is called into question. He was prepared to frighten the living daylight out of already stressed commercial fishers by feeding them false and misleading information. His scare tactic backfired. Firstly, people up and down the coast know that what he claimed was false. Secondly, many more stakeholders now know me because he asked them to contact me, and so they did. Thirdly, my fisheries database is now bigger and better. I thank the Minister for assisting in that development process. Fourthly, his scare campaign had no impact whatsoever. It further shrank the Minister's reputation in the eyes of respectable and decent people and exposed his bullyboy nature.

**The Hon. Dr B. P. V. Pezzutti:** He is worse than Bob Martin.

**The Hon. JENNIFER GARDINER:** That is one of the most common things that one hears in the fisheries debate. People said that it was impossible to get a worse fisheries Minister than Mr Martin. Now they say they were wrong.

**The Hon. Dr B. P. V. Pezzutti:** The Carr Government has been successful again in choosing the wrong person.

**The Hon. JENNIFER GARDINER:** The Carr Government has excelled itself in this respect. The Minister has insisted that his model for environmental assessment stay in the bill and he wants to set up a vague roundtable structure that is to be involved in the environmental assessment process. However, it is fairly unlikely that the model will survive this debate. The Minister has ignored the whole gamut of rallies, meetings and protests outside the Cabinet room. He and all his colleagues who let him bring in this version of the bill have ignored all of the messages at their peril. So much for consultation. The Minister says he has an open-door policy. So what? The door might be open but the consulting room is vacant.

Another part of the bill pretends to deal with the Carr Government's recalcitrance over half a decade, which has been widely criticised, for failing to put into place the world best practice Fisheries Management Act that was steered through the New South Wales Parliament by the Hon. Ian Causley and the Fahey Government. Rather than moving each commercial fishery into a share management fishery, only two have made it to that status—the rock lobster and the abalone fisheries. The Carr Government's pecuniary meanness and its lack of vision and true commitment to sustainable fisheries have left the commercial fishing industry hanging out to dry. From the repeated attacks upon the commercial fishing industry made by the Minister in this House, he seemed to want the industry, at best, to just go away or to lay down and die. It has not died and is still out there fighting.

I have enjoyed working with the industry leaders and environmental groups who were there in support of Ian Causley's bill when it went through this House. They support the vision that was inherent in that bill up to

this minute. They are appalled at the contrast between the previous Liberal-National Government's benchmark setting fisheries management regime and the poverty of vision that has been the hallmark of the Carr Government. The Minister in his second reading speech talks about the want for secure fishing rights. At long last he brought himself to mention those words.

The trouble is that in another part of the bill the sense of security is zapped. The category 2 share fishery created by the bill can be cancelled and shares that were meant to give certainty can just disappear. This is of great concern to the commercial industry. It is another part of the bill that is offensive to many of the stakeholders. The Minister referred also to the commercial fisheries summit that he held last year. Again, as with the recreational summit, there is great contention about what conclusions could be drawn from those discussions. The bill deals with a number of other issues and these will be further elucidated in later debates.

The Government has laboured for practically all of this year to produce a bill which has excited very few of the interested parties who followed its development throughout the year. There are very many unhappy stakeholders. Some of them want complete parts of the bill trashed; others want the whole bill thrown out. As I have said, the Opposition will help in that regard as we go through each of the major schedules to the bill. Certainly some of the schedules will need to be excised and others will have to be totally and absolutely rewritten to do the job that the Government has failed to do.

**The Hon. R. S. L. JONES** [3.38 p.m.]: This is an omnibus bill. It will not only amend the Fisheries Management Act and the Environmental Planning and Assessment Act in relation to environmental assessments of commercial fisheries, it will also introduce a general recreational fishing fee and a new commercial fisheries management framework category 2 share management. As we are all aware by now, the amendments to the Fisheries Management Act and the Environmental Planning and Assessment Act had been brought about by the Land and Environment Court decision by Justice Talbot in the sustainable fishing and tourism case. In that case Justice Talbot found that the Minister for Fisheries had unlawfully granted a commercial fishing licence to Mr Chris Watson, a trawler operator, because the Minister had not considered the environmental impact of the activity of hauling nets over seagrass beds.

The case was brought by Sustainable Fishing and Tourism Incorporated, a consortium of fishing and tourism associations representing 25,000 recreational anglers that reportedly took the Minister and Mr Watson to court to force the Government's hand to take action to stop the environmentally unsustainable fishing practices of commercial fishers in our rivers, oceans and lakes, and on our beaches. Honourable members would no doubt be aware by now that full commercial fishing licences in New South Wales are considered to be technically invalid as a result of that decision. The court has granted a six-month stay on the decision to allow the Minister and Mr Watson to take remedial action.

The Minister, of course, has many options available to him to rectify the problem. The worst-case scenario for the fisheries of this State would have been for commercial fishers in New South Wales to be given a blanket exception from the Environmental Planning and Assessment Act. Thankfully, that is not what we are here to consider today. The Minister should be commended for not attempting to take the easy way out. Unfortunately, however, the proposal before us does not make the most of the opportunity that this turn of events has provided: to ensure that the environmental impact of all fishing is independently and adequately assessed and acted upon.

It is not just commercial fishing that impacts on our natural environment; recreational fishing also has environmental impacts that should be assessed at the same time. Many Australians participate in recreational fishing and, as a result, it has significant cumulative impacts. Some years ago I wrote an article for *Simply Living* magazine that referred to fishing as the cruelest sport of all. There is no doubt in my mind that fishing is, indeed, the most cruel single sport indulged in by Australians. Fish have the same level of pain reception as cats and dogs, and they suffer enormously when taken with a hook. It is not a sport at all so far as the fish are concerned.

We have banned dogfights, cockfights, bear baiting and heaven knows what other cruel sports. It is a pity we have not banned recreational fishing. If I had my way we would have done it, because it is so cruel—quite apart from the fact that it depletes the resource. In some fisheries recreational catches are larger than those of the commercial sector, and they may be the major threat to the sustainability of the fish stock.

For example, in 1994 recreational fishers caught 65 per cent of the yellowfin bream and 62 per cent of the dusky flathead caught in the Richmond and Clarence rivers, compared to the commercial catch of 35 per cent and 38 per cent respectively. Recently I was on the Richmond River with Lance Ferris, who rescues pelicans and turtles. We went out to sea to release some baby turtles that had been saved. On our way back we activated the depth sounder and we could see fish appearing on the boat's television screen like little submarines.

**The Hon. Dr B. P. V. Pezzutti:** They are actually submarines, aren't they, but living ones?

**The Hon. R. S. L. JONES:** Yes, little living submarines; sub-marine creatures. I thought that the river would be full of fish, but I noted that there were very few fish in the river. There was one here and one there. I would have thought there would be many more fish out to sea, but there were not. One of the reasons for that in the Richmond and Clarence rivers is that acid sulphate soil run-offs occasionally cause terrible problems: they kill an awful lot of fish. Some of the rivers are very depleted. The problem caused by acid sulphate soil run-offs in our rivers is one of the problems we have to deal with urgently.

**The Hon. Dr B. P. V. Pezzutti:** Absolutely right! What has the Minister done about that?

**The Hon. R. S. L. JONES:** Nothing has been done yet.

**The Hon. Dr B. P. V. Pezzutti:** Absolutely nothing has been done.

**The Hon. R. S. L. JONES:** Nothing at all. A short while ago I made a speech in this House about that matter, but nothing has been done yet. Apparently an announcement will be made at some time. We need about \$25 million to \$30 million to even begin to tackle the problem.

**The Hon. Dr B. P. V. Pezzutti:** That is about 10 years of his budget.

**The Hon. R. S. L. JONES:** We need that sort of promise. We have a really serious problem in our fisheries. Recreational fishers also catch commercial quantities of fish. In 1996 the recreational catch of blue spot flathead in New South Wales was 200 to 300 tonnes; snapper was 188 tonnes and silver trevally was 103 to 112 tonnes. A large proportion of the recreational catch also consists of undersize and juvenile fish. Some 97 per cent of the snapper, 97 per cent of the bream and 85 per cent of the Tarwhine caught in Lake Macquarie in 1983 were undersize, as were 16 per cent of the flathead, 71 per cent of the mullet and 89 per cent of the sand whiting caught in Port Hacking in 1987; and 56 per cent of the whiting, 30 per cent of the flathead, and 78 per cent of the mullet caught in the Clarence River in 1992. One wonders what those figures are today. They are probably even greater than that.

Recreational fishers impact on intertidal organisms and fish habitats, which they collect for food and bait, and they damage seagrass with their boats. They are responsible for loss, discarded fishing gear and other rubbish. Thousands of kilometres of fishing line are lost each year; angling waste is a common sight on New South Wales beaches and headlands. When I walk along Tallow Beach I pick up rubbish. Almost every single time I walk along the beach with the dogs I come across not only balloons as I have mentioned previously, but also bait bags from Tweed Bait.

**The Hon. D. F. Moppett:** You might have mistaken some of them for balloons.

**The Hon. R. S. L. JONES:** No. I have actually written to Tweed Bait about this and said, "Can't you have bait bags that break down?" That has not happened yet, and they are still there with the balloons and other rubbish. Lance Ferris has been rescuing pelicans for a number of years. Most of the pelicans, at some time or another, have been entangled in fishing line. He has now expanded his activities right along the coastline to rescue birds from fishing line. Endangered and protected species of fish, birds and other animals, including ospreys and pelicans, are killed through entanglement and hooking, and by artificially stocked species, such as frogs and fish, preying on them.

Even though the changes put forward in the bill provide for management strategies to be prepared for each of the major fisheries in New South Wales and their strategies require environmental impact assessment, according to the Department of Urban Affairs and Planning guidelines they do not establish the independent process called for by major stakeholders. While the environmental impact assessment for commercial fisheries will be required to consider all impacts on the species the subject of environmental assessment in each fishery, including recreational fishing, no action will be taken to address the impacts of recreational fishing until after the data from the National Recreational Fishing Survey is made available in 2001, and recreational fishery assessments are prepared.

Under the Minister's proposed model the environmental impact assessments for commercial fisheries are also to be conducted by New South Wales Fisheries and approved by the Minister responsible for and in charge of New South Wales fisheries. There is a clear conflict of interest here. The poacher cannot be the

gamekeeper at the same time. There was a problem with forestry, but that has now been resolved. The Department of Urban Affairs and Planning now determines those environmental impact assessments. The same model should be prepared in this instance. On the other hand the key stakeholder proposed model "Sustainable Fishing Agreement", which was outlined to the joint agreement on 9 June, provides for independent and robust environmental impact assessment of commercial and recreational fishing via the Resource Assessment Commission Advisory Committee [RACAC] model with a key determining role for the Minister for Urban Affairs and Planning.

The forestry RACAC has been successful in sorting out many forestry disputes by pulling together technical information and being at arm's length from State Forests. A fisheries RACAC could do the same for fishery access disputes, water quality and fish habitats issue. Despite claims by the Minister to the contrary, his department, New South Wales Fisheries, is not an independent body for the purposes of fishery resource assessments. The department is not independent of the Minister or government policies in any way, shape or form, nor is it unbiased in this matter. A senior departmental employee has already publicly excluded one part of the coast from assessment and resource allocation, and the department has already labelled some forms of fishing gear as destructive and wasteful before any environmental assessments have been conducted.

Such actions make any assessment conducted by the department questionable to say the least, as the department is effectively writing the answers before doing any analysis. The State's fisheries agency does not have a very good track record when it comes to solving fishery conflicts. The access and management issues that plague fisheries today have been around for 100 years. New South Wales Fisheries handling of this issue to date has been somewhat irresponsible. In a media release dated 10 October the Minister revealed that New South Wales Fisheries knew in March 1993 that environmental impact statements [EISs] would be required on fishing licences under part 5 of the Environment Planning and Assessment Act. If that were so, the fisheries in this State could have to close down while the impact statements were prepared. Yet the department has apparently done nothing about it, apart from preparing a file note.

It is also puzzling to note that while the department was able to furnish the Minister with that file note in the year 2000, it was unable to furnish the previous Minister with it in 1995, 1996, 1997, 1998 or 1999. Why is this so? The department not only had two years under the previous Coalition Government to recommend appropriate action, it also had nearly five years under this Labor Government to do so, but it has not done so until now. The Minister's independence on this issue has been compromised by unveiling government plans to use some of the revenue raised from the general recreational fishing fee to buy out commercial fishing licences in Lake Macquarie and Botany Bay, and close the areas to commercial fishing.

The Government has also expressed an expectation that further closures will take place by stating that adjustments will take place in areas of high conflict. The Government intends to create recreational fishing areas to improve recreational fishing. The community will be able to nominate areas where recreational fishing can be improved by adjustments in commercial fishing. Lake Macquarie and Botany Bay will be amongst the first areas considered. These plans also pre-empt the EIS process and will, whether the Minister or Government want, place pressure on New South Wales Fisheries to produce EISs that recommend such closures. It is not a matter of whether it is appropriate to close areas, which may well be justified; it is a question of distorting the process. The in-house environmental impact assessments [EIA] to be conducted by New South Wales Fisheries can be manipulated, as with all EIAs, to produce the results the department wants or thinks the Minister or the Government is looking for.

Of course, the Government and the Minister can and should be able to reallocate commercial fishing resources to recreational fishers or vice versa and close significant areas to both commercial and recreational fishing. However, such reallocation must be done in a transparent manner. The Minister's model contrasts strongly also with the Federal Government's approach to an independent environmental impact assessment for Commonwealth fisheries. Under the Commonwealth Wildlife Act the resource management Minister is not able to approve the resource extraction activity as well as environmental controls. It also goes against what has constituted best practice in this State until now. As I have said, the Minister for Forestry, for example, is not able to approve State Forests EISs. In light of these very real conflicts, I am at a loss as to why the Minister is refusing to implement the consensus-based negotiated proposal put forward by the key stakeholders. After all, the issue has seen the emergence of the widest coalition of fisheries stakeholders in New South Wales. Not only have commercial and recreational fishing groups of this State come together to try to solve problems that have plagued New South Wales Fisheries for the last 100 years; they have been joined in their efforts by major environmental groups also.

These groups are not, as some might have us believe, small vocal minority groups; they are large long-established and highly representative bodies. The New South Wales Seafood Industry Council, for example, is

an umbrella body made up of the groups Profish, Master Fish Merchants Association, New South Wales Fishermen's Co-operative Association, New South Wales Seafood Industry Training Council, Oceanwatch Australia Ltd, Oyster Farmers Association of New South Wales Ltd and Sydney Fish Markets Pty Limited. Profish is the largest professional fishers organisation in New South Wales with nearly 600 members. The Master Fish Merchants Association has 198 members, who represent 75 per cent of regular buyers at the Sydney Fish Markets. The New South Wales Fishermen's Co-operative Association represents all of New South Wales 20 co-operatives and all of its more than 8,000 members are shareholders in the Sydney Fish Markets Pty Ltd.

**The Hon. D. F. Moppett:** So you would say all the people with credible interests are opposed to this system?

**The Hon. R. S. L. JONES:** They want improvements to the system proposed by the Minister. Oceanwatch Australia Ltd is an independent environmental watchdog working with and funded by the industry—that is, both catchers and merchants. The Oyster Farmers Association of New South Wales Ltd is the largest oyster growers association in New South Wales and its 170 members produce 75 per cent of the oyster crop and 80 per cent of New South Wales total aquaculture production. Sydney Fish Markets Pty Ltd is the largest such market in the southern hemisphere servicing Australia's largest seafood marketplace—Sydney. The Nature Conservation Council is also a peak umbrella organisation and represents about 120 conservation and environment groups in New South Wales and collectively works on a huge range of conservation issues in New South Wales. If the commercial and recreational fishing sectors and the major environment groups of this State can come together and agree on a way forward to a more sustainable fishery in New South Wales for the benefit of the whole community, so we can and should.

We must ensure that this unique opportunity for this State's resources is not lost. The issue is too important to allow flawed legislation to be passed. We must do more than the bare minimum and establish an independent environmental impact assessment process. In order for environmental impact assessments to be credible, all parties must be treated equally by the process and all relevant issues affecting the state of the fisheries assessed and acted on in unison. At the very least we need a fisheries resource assessment council that will be a joint author with New South Wales Fisheries of the EISs. As it currently stands, commercial and recreational fishing will be subject to different environmental assessment at different times for the same area of the coast. The resultant decisions will collapse because they will not have followed a process the community believes is credible and fair. As a result, the current controversy will be further inflamed over the next several years and politically sustainable, credible and environmentally enlightened decisions will not result.

A truly independent process is the only way to deliver public confidence in fisheries management. It provides the best chance of maintaining some credibility in the fisheries management process. Without it, there can never be sustainable fisheries. Independent environmental assessment is fundamental to the future health of New South Wales fish resources. By ensuring that fisheries and environmental resource assessments are conducted at least in partnership with a body independent of New South Wales Fisheries we will be able to take the heat and politics out of fisheries management. Without such changes our natural resources could be used as electoral bargaining tools and the adjustment process argued to be based on vote buying and politics rather than on ecological sustainability. Mixing environmental politics and natural resource management has always been a recipe for disaster. I understand amendments developed in consultation with the key stakeholders that address these issues will be moved in Committee. I urge the majority of honourable members to support them.

The general recreational fishing fee accompanies the introduction of a general recreational fishing licence to fish in New South Wales waters. Honourable members will be aware that I have asked various estimates committees over the years for the introduction of such a licence. Year after year I asked the relevant Minister of the time when such a fee would be introduced. They all said it could not be done. Now we have it. It is a very good idea. The licence will cost \$5 for a three-day period, \$10 for a month, \$35 for one year and \$70 for a three-year period. However, it will not be applied to pension card holders, children under 18 or adults supervising children. All moneys raised from the licence fee will go into dedicated salt water and freshwater trusts and be spent on recreational fishing issues with the oversight of anglers.

No doubt this fee will be of benefit to anglers generally. Hopefully some of this money will be used for rehabilitating habitat. While I and environment groups such as the Nature Conservation Council wholeheartedly support the introduction of the licence, it is crucial that the funds be directed towards projects that not only improve recreational fisheries but also ensure the long-term survival and conservation of marine life—projects such as habitat protection and rehabilitation, declaration of marine parks and research on the impact of recreational fishing. There is plenty of evidence of destruction of seagrass beds by boating enthusiasts, urban

run-off, drainage from acid sulfate soils and other pollution are seriously degrading waterways, reducing fish stocks and destroying oyster farms. These problems are being addressed far too slowly to even halt further degradation let alone begin restoration and rehabilitation.

Funds are urgently required for fish habitat rehabilitation works, such as the rehabilitation of seagrasses, restoration of acid sulfate soils, removal of fish barriers and concrete culverts in creeks, and re-creation and rehabilitation of wetlands. Hopefully that will be done. New South Wales has lost many valuable fish breeding grounds, such as mangroves, through development, but many can be rehabilitated. A program needs to be mapped out to convert the concrete rivers and streams around Sydney back into naturally flowing waterways with revegetated banks with mangroves, casuarinas and other locally indigenous species. Similar rehabilitation programs in other fish breeding areas around coastal New South Wales would also have a significant effect on fish population. Inappropriate weirs and dams on coastal streams and rivers that inhibit fish should also be removed.

In order to conserve biodiversity and fish stocks we need also a comprehensive, adequate and representative marine reserve system. With only three marine parks covering an area of 140,500 hectares, unfortunately we are far from having such a system and more funds are urgently required to conduct the environmental studies needed to identify future possible sites of marine parks. The public has made it clear that the highest priority for the expenditure of revenue raised from such a licence should be conservation. In fact, 83.4 per cent of respondents to the recent general recreational fishing licence phone survey believe that the funds raised from the general recreational fishing fee should be spent on looking after the environment as the highest priority. Much more needs to be done also to assess and monitor the impact of recreational fishing, the impact of all fishing methods and those found to be environmentally damaging to be restricted or ended.

As I have already outlined, there is abundant evidence that recreational fishing takes huge numbers of fish, is focused on juvenile and undersize fish and takes protected species of birds. However, there is evidence that this is merely the tip of the iceberg. The New South Wales recreational fishery is currently an open access fishery with an unknown number of participants fishing at any one time. The recreational catch is often difficult to quantify and where attempted probably underestimates the actual take in many instances. The impacts on the ecosystem of recreational fishing, either by killing fish or indirectly by habitat impacts associated with catching fish, remain scantily documented. The funds raised from this fee should not be used merely to restock coastal lakes and estuaries—as restocking compromises the genetic integrity of wild stock and alters species composition and predator-prey relationships—and to compulsorily buy out commercial fishers, as the effort may just be transferred to other regions.

The proposed restocking of estuaries and enclosed waterways with hatchery-reared trophy fish is unacceptable as it is likely to disrupt and threaten ecosystems through increases in disease and predator species. It will also result in the public subsidisation of private aquaculture ventures through the funding of research into hatchery rearing techniques and purchasing of stock. Many fisheries in coastal New South Wales are under pressure but the solution does not lie in the mere displacement of commercial fishing effort with recreational fishing. While the creation of exclusive recreational fishing grounds through the buying out of commercial fishers will reduce commercial fishing effort in those areas, it will not necessarily lead to a reduction in the overall fishing effort or benefit the resource. As the Australian National Sporting Association Ltd New South Wales branch said in a press release dated 1 March 2000 "the rationale that a reduction in the number of commercial fishers will lead to better fishing outcomes for recreational fishers from [those] waterways is seriously flawed".

Commercial fishing licence buyouts can also be viewed as inequitable and branded as pork-barrelling. For example, the Australian Fishing Tackle Association claimed in a media release dated 23 March 2000 that "while commercial fishing effort may be reduced in those areas as a result [of buyouts], recreational anglers [would] be paying to superannuate inefficient and unprofitable commercial fishermen with little benefit to the fishery at all".

**Pursuant to sessional orders business interrupted.**

## **QUESTIONS WITHOUT NOTICE**

### **HONOURABLE MEMBER FOR FAIRFIELD SEXUAL ASSAULT ALLEGATION**

**The Hon. M. J. GALLACHER:** My question is to the Treasurer and Leader of the Government. Is the Treasurer aware that the Commissioner of Police, Peter Ryan, told ABC radio this morning that the Independent

Commission Against Corruption is the most appropriate body to investigate the circumstances surrounding the alleged sexual assault of a young woman by the member for Fairfield? Will he now explain the apparent contradiction between that statement and those of both the Premier and the Minister for Police, who maintain that it is a matter best dealt with by the police?

**The Hon. M. R. EGAN:** I am unaware of any statement made by Mr Ryan.

### **FREIGHTCORP PRIVATISATION**

**The Hon. D. J. GAY:** Is the Treasurer aware that two key interest groups—namely, mining and grain—which contribute more than 75 per cent of FreightCorp business indicated to last week's committee hearings into privatisation that they were never consulted by the Government prior to the announcement being made public? Is this what he would consider to be normal practice by a government? Was not the only study into this privatisation the one conducted by the Rail Tram and Bus Union with a grant from their Labor Government mates? Why did the Government not seek the views of these major interest groups or prepare a regional impact statement before taking the proposal to Cabinet and making a public announcement on the future of FreightCorp?

**The Hon. M. R. EGAN:** If the Deputy Leader of the Opposition has any quibbles with the decision which the Government has taken—indeed the decision of the Government which was supported by his former colleague Mr Tim Fischer—I suggest that he makes a submission to the parliamentary committee that is currently considering this issue; or, otherwise, wait until the matter is debated in the Parliament.

### **CENTRAL COAST DEVELOPMENT**

**The Hon. A. B. KELLY:** My question is to the Minister Assisting the Premier for the Central Coast. What measures is the Government taking to plan for the future of the Central Coast region, to create local jobs and to protect the environment?

**The Hon. J. J. DELLA BOSCA:** Honourable members could be aware—I am sure one would be aware as a long-term resident of the Central Coast—that I am passionate about the region and its future. It gives me great pleasure to report to the House that on Wednesday last week, 8 November, I convened a summit or seminar at Somersby called "The Central Coast—Moving Forward". The aim of the gathering was to bring together opinion leaders from Central Coast businesses, local and State governments, the environment and the community in general to discuss ways of moving the region forward. Joining local speakers was a group of specialists from merchant banking, information technology, tourism and education. The forum heard very encouraging business success stories in the region from local business people and discussed strategies that could attract clean, quality jobs—consistent with the lifestyle and environment of one of the most beautiful regions in the State. The group quickly reached a consensus that the natural assets give the region a competitive advantage in attracting highly qualified employees and clean, growing industries. Safeguarding the environment and balancing the demand for jobs are essential. Innovation, entrepreneurship and a self-help attitude emerged as vital ingredients to successful companies and successful regions. The forum also stressed the need for quality in every aspect of the region's image: quality products, service, developments and design.

**The Hon. M. J. Gallacher:** Paul Crittenden, the member for Wyong, was not there.

**The Hon. J. J. DELLA BOSCA:** He was, actually.

**The Hon. M. J. Gallacher:** How? You said there was quality.

**The Hon. J. J. DELLA BOSCA:** He was there and he was one of the people discussing quality. Importantly, the summit also discussed the reasons some strategies would not be productive, why some businesses will not relocate, and that job creation is most likely from existing businesses. Promotion of the Central Coast and a single body to represent its economic cause to government, to tourism bodies and to business were also seen as an important step. With the co-operation of Gosford and Wyong councils, I expect to be able to announce in the near future significant progress on this matter. The Central Coast—Moving Forward forum will not be a one-off event. Next month a larger forum will be held at Tumby Umbi to refine and improve the conclusions from the first forum. Members of the community can also view the speakers' notes and the recommendations on the web site [www.ccmovingforward.com](http://www.ccmovingforward.com).

This process could not have occurred without the co-operation, attendance and contribution of Central Coast members of the Legislative Assembly. I pay tribute to the great efforts of Grant McBride, Milton

Orkopoulos, Marie Andrews and Paul Crittenden and, just to show that I am not a bigot, the honourable member for Gosford, Chris Hartcher. I also thank the head of the Premiers Department infrastructure co-ordination unit, representatives from the departments of planning and education, the mayors and general managers of the two councils involved, Gosford and Wyong, the dynamic speakers and the local media, which gave their valuable support to the forum. I can assure honourable members that the Government is committed to ensuring that the Central Coast is prepared for the population growth it is likely to attract over the next couple of decades and that it has jobs growth which does not impinge on the environment and lifestyle of residents. The first Central Coast—Moving Forward forum has begun to chart the course for the region. With the historic co-operation seen at Somersby I am sure next month's gathering will be a great success.

### **PRESUMPTION OF INNOCENCE**

**The Hon. D. E. OLDFIELD:** My question is to the Treasurer and Leader of the Government in the Legislative Council. Has the Treasurer kept up with the ongoing campaign in the media regarding the unsubstantiated allegations against a member of this Parliament? Is the Government concerned that this issue continues its prominence, taking a new turn last weekend leading to more newspaper, radio and television coverage? Is the Government concerned that reports that the person making the accusations is now willing to take part in a judicial inquiry and the Independent Commission Against Corruption now being involved may be viewed by the public as somehow upholding the idea that the member is guilty? Is the Government concerned about what may very well be considered a trial by media of a person who has not even been charged? Will the Treasurer, on behalf of this Government, comment on the continued assault on the principle of the presumption of innocence through extensive media coverage of a kind that must lead many people to, in their own minds, convict the accused despite the lack of charges, evidence or a trial?

**The Hon. M. R. EGAN:** As I indicated to the House when it last met, I support the presumption of innocence. I believe in the presumption of innocence, and if any members of this House have any evidence of criminal action by anyone in the community they know that they should take it to the police. If they have any complaint about the conduct of anyone else in relation to such a matter they know that there are appropriate avenues to pursue those matters.

### **LITHGOW SILICON SMELTER**

**The Hon. I. M. MACDONALD:** My question is to the Minister for State Development. Will the Minister give the House details of the latest investment project to get off the ground in Lithgow?

**The Hon. M. R. EGAN:** The Hon. I. M. Macdonald is a keen, active and enthusiastic member of Country Labor, so I am pleased to advise him and the House that the Government of New South Wales has now given development approval for the Lithgow silicon smelter project. This is subject to strict conditions arising from the environmental impact process that has now been completed. This is great news for the Central West and great news for jobs in regional New South Wales. The silicon smelter at Lithgow will create more than 110 jobs during construction and 120 permanent operational jobs. It is expected to cost up to \$120 million. In addition, the associated \$3 million quartz mine at Cowra will secure a further 14 jobs. While the project has been given the go ahead, it has been given the status of deferred commencement until a number of requirements by the Department of Urban Affairs and Planning have been met.

Some of the conditions include requiring Australian Silicon to identify an environmentally sustainable source of charcoal—to be approved by the Department of Urban Affairs and Planning—before the project can proceed; planting and maintaining 8,100 hectares of trees—or, for people like me, 20,000 acres—to help combat salinity and offset greenhouse gas emissions, with the Department of Urban Affairs and Planning to approve the plans within 12 months; company compliance with the requirements of the Department of Urban Affairs and Planning regarding alternative sources of carbon; transport of products to sea ports must be by rail; and all environment management plans for the smelter and the mine meeting the satisfaction of the Department Urban Affairs and Planning and other relevant agencies.

These guidelines will provide a good balance between protecting the environment and creating jobs for young families in country New South Wales. The proposal for a Gunnedah charcoal plant, which had been part of the original proposal, has been withdrawn at the company's request as it is still negotiating on the range and type of source material. I would like to congratulate Country Labor member of Parliament for Bathurst, Mr Gerard Martin, on his work in helping to bring this project to fruition. He has worked hard to win this project for the people of Lithgow. I look forward to seeing the additional benefits this important project will bring to the families and communities of the Central West.



### AUSTRALIAN LABOR PARTY ELECTORAL TACTICS

**Ms LEE RHIANNON:** I direct my question to the Special Minister of State. Can the Minister give a guarantee that no Labor Party members in New South Wales are currently involved in the electoral rorting tactic known in New South Wales as bussing and in Queensland as parachuting whereby ALP members register on the electoral roll at an address where they do not actually live for the purpose of influencing Labor Party preselection or elections in marginal seats?

**The Hon. M. R. Egan:** Point of order: Madam President—

**The Hon. I. M. Macdonald:** One wonders about the electoral rorts of the socialist party in Australia.

**The Hon. M. R. Egan:** I was very inclined to relate to the House how the Greens in the United States of America have done their utmost to elect George W. Bush, not that they have succeeded. I am sure that Ms Lee Rhiannon and the Hon. I. Cohen are very proud of what that silly Mr Nader has done. The question has absolutely nothing to do—

**Ms Lee Rhiannon:** Answer the question.

**The Hon. M. R. Egan:** I am speaking to my point of order. You did not ask me the question. The question has nothing to do with the responsibilities of the Special Minister of State. The Hon. J. J. Della Bosca is not responsible to this House, or to anyone for that matter, for inaction or omission of any member of the Australian Labor Party. The question is clearly out of order.

**The PRESIDENT:** Order! As I ruled on a previous occasion, Standing Order 29 provides that Ministers of the Crown can be asked questions relating to public affairs in which they may be concerned; however, the affairs of the Australian Labor Party are not public affairs in relation to which the Minister is able to answer questions. Accordingly, I rule the question out of order.

### SPECIAL MINISTER OF STATE PECUNIARY INTEREST DISCLOSURE

**The Hon. Dr B. P. V. PEZZUTTI:** My question today is directed to the Special Minister of State, Minister for Industrial Relations, Assistant Treasurer, Minister Assisting the Premier on Public Sector Management, and Minister Assisting the Premier for the Central Coast. Can he assure the House that the \$50,000 raised from the fundraiser that he held at the Royal Botanic Gardens on 30 June, at which the Treasurer was guest speaker, should not appear on his pecuniary interest statement? Can he assure the House that neither he nor his wife has possession of the money and, therefore, it does not need to be declared on his pecuniary interest statement?

**The Hon. J. J. DELLA BOSCA:** I will answer the question in two ways. First, as I assured the House previously, I am satisfied in every respect that I complied with the requirements of the pecuniary interest register. Second, in response to the matters asked by the Hon. Dr B. P. V. Pezzutti, I have already answered the question in full. As I have said previously, under Rule K—I cannot remember which number—all properties and funds raised for the purpose of campaign fundraising remain the property of the Australian Labor Party New South Wales branch and its trustees.

**The Hon. Dr B. P. V. PEZZUTTI:** I ask a supplementary question. Given that the Minister's wife is not currently an endorsed candidate, does that change his answer?

**The Hon. J. J. DELLA BOSCA:** No.

### REGIONAL INVESTMENT

**The Hon. J. R. JOHNSON:** My question is to the Treasurer, and Minister for State Development. What is the Government doing to promote investment and jobs in regional New South Wales?

**The Hon. M. R. EGAN:** Although the Hon. J. R. Johnson is not a member of Country Labor, he is a great supporter of Country Labor.

**The Hon. J. R. Johnson:** I am a member.

**The Hon. M. R. EGAN:** I apologise to the Hon. J. R. Johnson for that slight. I live and learn. I learn something new every day.

**The Hon. D. J. Gay:** Was he one of the 290 who attended the conference?

**The Hon. M. R. EGAN:** Were you at the conference?

**The Hon. J. R. Johnson:** I certainly was.

**The Hon. M. R. EGAN:** As a delegate?

**The Hon. J. R. Johnson:** No.

**The Hon. M. R. EGAN:** There were 400 who attended. That would be more than the combined membership of the National Party throughout the whole of New South Wales! There would not be 400 National Party members in New South Wales anymore.

**The Hon. D. J. Gay:** Most of them must not have voted. They could not care about FreightCorp. Only 290 voted.

**The Hon. M. R. EGAN:** Members of Country Labor will always put the jobs of workers ahead of ideology, just as your colleague Tim Fischer does. Just two days ago the Premier released "Beyond 2000—Regional Infrastructure Projects". As the House is aware, the "Beyond 2000" documents are part of the Government's blueprint for jobs and investment in regional New South Wales. This new document contains 78 regional infrastructure projects, representing more than \$10 billion in new public and private sector investment. That is almost five times the amount of money spent on Olympic and Paralympic capital works. The public and private investment will mean 50,000 new jobs for regional and rural families. Almost \$6 billion of the \$10 billion is for projects outside Newcastle, Wollongong, the Central Coast and the upper Blue Mountains. The "Beyond 2000" projects include mines, roads, residential developments, paper mills, power stations, pipelines, telecommunications, hospitals, shopping centres, schools and hotels.

*[Interruption]*

There are a few people in the gallery today who have not been here before and the Hon. B. P. V. Pezzutti is setting a very bad example. He is giving this House a bad reputation. That is the behaviour that we would expect from a brigadier.

**The Hon. J. J. Della Bosca:** Not a parliamentarian, a soldier or a doctor.

**The Hon. M. R. EGAN:** As my colleague has pointed out, it is not the sort of behaviour we would expect from a parliamentarian, a soldier or a doctor. "Beyond 2000" comprises some 50 pages and shows that our approach of working in partnership with the private sector and local communities is paying dividends in rural and regional New South Wales. We are seeing the results in both traditional manufacturing, mining and agribusiness, as well as in the new high growth areas such as aquaculture and viticulture—of which my colleague the Minister for Fisheries is well aware. This list is far from exhaustive. More projects are coming on line every day.

**The Hon. M. J. Gallacher:** What is new?

**The Hon. M. R. EGAN:** I am about to tell the honourable member. Be patient. By the way, if honourable members do not have a copy of the document they have only to let me know and I will make copies available. The Hon. D. T. Harwin has indicated that he would like a copy. I will provide copies to honourable members for distribution throughout the community. If they would like additional copies, they should let my office know and we will make sure we keep up a sufficient supply. Since the release of this very impressive document we have also announced a new \$640 million mine in Condobolin and the \$120 million silicon smelter in Lithgow, which I announced today.

**PRISONER EDUCATION**

**The Hon. HELEN SHAM-HO:** I direct my question without notice to the Special Minister of State, representing the Minister for Corrective Services. Is it a fact that the Government has recently been engaged in a review of education in the prison system? Does the Minister agree that education and the acquisition of skills are essential in the process of rehabilitation of prisoners? Will the Minister inform the House what specific action the Government is taking to address low levels of education, specifically in the areas of literacy and numeracy, among inmates? Will the Minister for Corrective Services, and his colleague the Minister for Education and Training, consider increased funding for TAFE courses in prisons in proportion to the increase in the prison population?

**The Hon. M. R. EGAN:** I will refer the honourable member's question to my colleague the Minister for Corrective Services and obtain a reply.

**HONOURABLE MEMBER FOR FAIRFIELD SEXUAL ASSAULT ALLEGATION**

**The Hon. PATRICIA FORSYTHE:** Madam President, my question is to you. Have you built a career championing the rights of women—

**The Hon. M. R. Egan:** Point of order: Madam President, on a number of occasions you and your predecessors have ruled that any question to the President is out of order—any question.

**The Hon. Patricia Forsythe:** To the point of order: The question is only out of order if you so rule. I would have thought it would be courteous to hear the whole question before seeking to rule on it. There is ample precedent from the time of President Willis and President Chadwick, and, indeed, President Johnson, that the President has sought to answer a question—

**The Hon. M. R. Egan:** To the point of order: Merely because some of your predecessors may have, on the odd occasion, erred, is no reason for you to err, Madam President.

**The Hon. J. F. Ryan:** To the point of order: The ruling to date has been that it is only out of order to ask the President a question on domestic matters relating to the House. I think you should hear the question because you have no idea what the question is about. Madam President has to at least hear the question to decide whether it is or is not in order.

**The PRESIDENT:** Order! As I ruled earlier, it is clear from the standing orders of the Legislative Council and Erskine May's *Parliamentary Practice* that it is not in order for a question to be asked of the Chair relating to the administration of the Parliament. Standing Order 29, which relates specifically to the operation of question time, provides that Ministers and members may be asked questions about public affairs over which they have competence. However, if a member wishes to ask me a question relating to public affairs over which I have some responsibility but which do not relate to the administration of the Parliament, the question would be in order.

**The Hon. PATRICIA FORSYTHE:** I will endeavour to obey your ruling. My question is: Have you built a career championing the rights of women and working for changes in laws, protocols and cultures to protect women from predatory male behaviour? Do you accept that the matters surrounding allegations of sexual assault against the member for Fairfield and allegations of a cover-up by Mr Speaker in another place are among the most serious that could be made against members of Parliament?

**The PRESIDENT:** Order! The question is clearly out of order for the reasons previously stated. It relates either to the administration of the Parliament or to public affairs over which I have no administration.

**The Hon. PATRICIA FORSYTHE:** The reputation of Parliament—

**The PRESIDENT:** Order! Are you canvassing the ruling of the President?

**The Hon. Dr B. P. V. Pezzutti:** Further to the point of order—

**The PRESIDENT:** Order! There is no point of order. You are canvassing my ruling.

**The Hon. Dr B. P. V. Pezzutti:** I seek an extension of your ruling. Given your ruling on this matter, how do you then put yourself—

**The PRESIDENT:** Order! The honourable member will not canvass the President's ruling.

### CHILD SAFETY IN THE WORKPLACE

**The Hon. JANELLE SAFFIN:** I direct my question to the Special Minister of State, Minister for Industrial Relations, Assistant Treasurer, Minister Assisting the Premier on Public Sector Management, and Minister Assisting the Premier for the Central Coast. Will the Minister inform the House what the Government is doing to address child safety in the workplace, particularly farm safety for children?

**The Hon. J. J. DELLA BOSCA:** I am pleased to inform the House of a number of practical initiatives of the Government to address child safety in the workplace, in particular the safety of children on farms. The focus of these strategies is on prevention through better information and education. I inform the House about three campaigns that are particularly relevant. Start Safe is a multimedia package designed for school and TAFE students. Included in the package is a computer game entitled "Don't Kick the Tractor". It is a farm health and safety game used by teachers of agriculture that is targeted at junior high school students. The Start Safe package was distributed in October 1998 free of charge to all secondary and central schools, and in January 2000 to TAFE colleges. It was included in the senior secondary science syllabus in January 2000 and will also be included in the senior secondary English syllabus in 2001.

In October 2000 WorkCover, FarmSafe, Wesfarmers Dalgety Ltd and the New South Wales Department of Agriculture organised a farm safety field day for agriculture students called Farmers of the Future. The field days, held in Tamworth and Woodenbong, attracted 380 participants, including 160 local year 9 agriculture students in Tamworth. WorkCover is keen to extend this joint project throughout the rural community of New South Wales and I look forward to further briefing Parliament on this excellent initiative. The Youth Safe package, launched in June 2000, has been produced by the New South Wales Labor Council, assisted by six New South Wales high schools and colleges through a WorkCover grant. The high schools include Maclean High School, Scotts College at Bathurst and Cronulla High School.

A total of 10,000 packages are being printed for distribution to public, independent and Catholic schools. This education package, which includes prevention procedures, is being used by teachers in public and private schools to assist students who work part time outside school hours or during holiday breaks or are undertaking work experience. The next phase of the program will include development of material for young men in rural areas. Matraville High School, which assisted in the project, was awarded the Director-General of the Department of Education and Training's Award for Outstanding Teaching and Training in Vocational Education. Those three initiatives are part of a comprehensive package to reduce the accident rate amongst young people in workplaces. There are other industry specific initiatives also in place, including one for young workers in the hospitality and construction industries. I look forward in future to further informing the House about those and other accident prevention schemes.

### ROADS AND TRAFFIC AUTHORITY ETHNIC NEWSPAPER ADVERTISING

**The Hon. Dr P. WONG:** My question without notice is to the Minister for Mineral Resources, representing the Minister for Roads. I understand that the Minister for Roads recently ordered the Roads and Traffic Authority [RTA] to advise residents of western Sydney about the M4 and M5 cashback system through an advertising campaign which is currently running. Does the Minister know that the RTA has been running advertisements completely in English in the ethnic newspapers? Does the Minister consider that that is an effective way to communicate with those from a non-English speaking background who read ethnic papers because they cannot read English? How much money did the RTA spend on the ethnic component of that campaign? Is that an indication of the Government's new attitude towards ethnic affairs, now that it has taken the word "ethnic" out of the title of the Ethnic Affairs Commission?

**The Hon. E. M. OBEID:** Although that question was addressed to my colleague in the other House, I have some knowledge about the way in which ethnic newspapers operate. I am quite surprised that a Chinese newspaper published an advertisement in the English language. It has always been the case that when an advertisement is received by any of the multilingual newspapers it is translated.

**The Hon. M. J. Gallacher:** It is part of the service.

**The Hon. E. M. OBEID:** Yes, it is part of the service and it is free of charge to the advertiser. If a Chinese language paper has published an English language advertisement, that is the problem of the newspaper.

**The Hon. D. J. Gay:** It is done as a bromide, and they cannot change it.

**The Hon. E. M. OBEID:** I have no doubt that when every government agency sends advertising to the ethnic press, as it is obliged to do, it does so on the basis that the advertisement will be translated by that newspaper. A proof is sent to the advertising agency to make sure that it is correct. Sometimes the former Ethnic Affairs Commission was consulted. I am amazed that a reputable Chinese newspaper would place an advertisement in the English language for its Chinese-language readers.

**The Hon. Dr P. WONG:** I ask a supplementary question. Minister, is it not true that usually the government agency would instruct the newspaper, including the *Daily Telegraph*, to translate the advertisement into its ethnic language? Did the department instruct the newspaper to do so? If not, did the newspaper have a legal liability or responsibility to do so?

**The Hon. E. M. OBEID:** I do not doubt the sincerity of the Hon. Dr P. Wong in his concern that advertisements are placed in ethnic newspapers in the language of the readership. I have no doubt about that. To my knowledge it is the practice of all agencies that advertisements are sent to a newspaper on the understanding that the price includes translation, other than political party advertisements, which are translated for a fee. Newspapers employ translators; every newspaper must have internal translators or subcontractors to translate. I have acquired some knowledge of the industry and know that that is part of the deal. I do not know what happened in the situation referred to by the honourable member but I am prepared to find out what was requested. I would not be surprised if the newspaper had made a mistake by not translating the advertisement into the Chinese language.

#### CHARTER BOAT INDUSTRY

**The Hon. JENNIFER GARDINER:** My question is to the Treasurer. Is it not a fact that a guiding principle in reviewing legislation in accordance with competition policy agreements is that legislation and regulations should not restrict competition? Bearing in mind the Government's deregulation of the dairy industry, can the Treasurer inform the House why the Government is taking the opposite tack in regulating to restrict competition in the charter boat industry by limiting the number of boats? Has Treasury examined the charter boat regulation? Will the Treasurer undertake to examine the economic and tourism implications of such an anticompetitive regulation in places such as Port Stephens?

**The Hon. M. R. EGAN:** Unfortunately, I am not aware of any proposals within the charter boat industry. However, I will refer the honourable member's question to the appropriate Minister, whoever he or she may be.

#### CHARTER BOAT INDUSTRY

**The Hon. AMANDA FAZIO:** My question is to the Minister for Fisheries. Can the Minister please update the House on progress in the management of the New South Wales charter boat industry?

**The Hon. E. M. OBEID:** I thank my colleague for the timely question. How blinkered is the Opposition?

**The Hon. M. R. Egan:** Why did the Hon. Jennifer Gardiner not ask you that question?

**The Hon. E. M. OBEID:** Because she was not game enough. The Hon. Jennifer Gardiner does not ask me questions relating to her shadow portfolio. She should have asked me that question. As a courtesy to my colleague for asking a very sensible question, I thank her for her interest in the better management of this very important regional industry, which operates from 42 coastal sites. I am pleased to say that as of yesterday, 13 November, the Government's plan to ensure the sustainable management of our fisheries includes the licensing of all New South Wales charter fishing boat operators. This industry is a significant user of our fish resource but until now it has been without a strong management plan.

**The Hon. R. S. L. Jones:** Point of order: We are in the middle of debate on a bill about fisheries, which includes this issue. The question is out of order.

**The Hon. E. M. OBEID:** The bill before the House does not specifically cover the regulation of charter boats.

**The Hon. R. S. L. Jones:** Charter boats are included in the bill.

**The Hon. E. M. OBEID:** The question is about management of a particular sector. The bill before the House is an amendment to the Fisheries Management Act, which does not cover any detail of charter boat operators.

**The PRESIDENT:** Order! The rule of anticipation certainly applies to a bill that is before the House. However, we can only take the Minister's assurances as to what is in that bill.

**The Hon. Jennifer Gardiner:** It is on page 55 of the bill.

**The PRESIDENT:** It is the Minister's interpretation of what will be discussed when the bill is before the House.

**The Hon. Jennifer Gardiner:** Point of order: The bill before the House refers to provisions that relate to the licensing of charter fishing boats, which is what the question was about. My question was in order because I was not talking about licensing. I was talking about the national competition policy.

**The Hon. M. R. Egan:** You did not know who the Minister was.

**The Hon. Jennifer Gardiner:** The Treasurer is in charge of the national competition policy.

**The Hon. M. R. Egan:** No, I am not.

**The Hon. Jennifer Gardiner:** Well, you should be.

**The PRESIDENT:** Order! If the question relates to the licensing of charter fishing boats, the question is out of order. However, the Minister may respond to those references in the question that do not relate specifically to a bill that is before the House.

**The Hon. E. M. OBEID:** I was rudely interrupted by Opposition members, who do not want to know about what is happening in the charter boat industry in regional New South Wales. I will answer the question and give details to members on this side of the House, particularly Country Labor members, who are very keen to know what is happening. Country Labor has been lobbying for the creation of every possible industry in the regions. The charter boat industry is one of the most important regional industries that has been created. This industry is a significant user of our fish resource. However, until now it has been without a strong management plan to protect existing operators. The new scheme will give charter fishing boat operators more security.

**The Hon. Dr B. P. V. Pezzutti:** Point of order: Quite clearly the Minister is debating a bill that is before the House. He has referred to this issue in his second reading speech. I ask, Madam President, that you rule the question out of order and sit the Minister down.

**The Hon. E. M. OBEID:** To the point of order: The speech refers only to a fee for charter boat operators.

**The Hon. D. J. Gay:** It does not.

**The Hon. E. M. OBEID:** It does. It does not say anything about the management or the regulation to administer that particular sector.

**The Hon. D. J. Gay:** It is about the management of fisheries.

**The Hon. J. H. Jobling:** To the point of order: In items [2], [3] and [4] of schedule 7 on page 55 the bill deals with a number of facets of charter fishing boats. It states:

... including for or with respect to permitting, prohibiting or restricting the use of a boat as both a charter fishing boat and a commercial fishing boat ...

The bill also deals with the licensing of charter fishing boats. Most matters, therefore, that relate to the use of a charter fishing boat in any form are canvassed in the bill. Anything the Minister says in relation to that can and must be treated as anticipation of debate on a bill that is before the House this very day for further debate and on which the Minister has delivered a second reading speech. Therefore, the Minister's answer should be ruled out of order.

**The Hon. E. M. OBEID:** Further to the point of order: This answer relates to a regulation that was gazetted last July. It has nothing to do with the bill.

**The PRESIDENT:** Order! The Minister is able to speak in a general way about previous legislation or previously gazetted information. He simply has to avoid reference to the administration of charter boats, which is dealt with in a bill that is before the House. The Minister may proceed.

**The Hon. E. M. OBEID:** I will avoid speaking about dual licencing. The new scheme will give charter fishing boat operators more security. It will help protect legitimate operators, those who operate all year round, from opportunistic fly-by-nighters who seek to make a quick buck in good seasons. Licensees will be required to keep comprehensive records of catches, which will help ensure that vital research and information are provided to the New South Wales Government. The new licence follows three years of extensive consultation with the industry and the community. Since 1997 the Government has cautioned against investment in the industry, as capping of effort was a distinct possibility.

**The Hon. J. H. Jobling:** Point of order: I must come back to the comment I made previously and in relation to your ruling. The Minister is now referring to the licensing of a charter fishing boat. The bill deals with "permitting, prohibiting or restricting the use of a boat as both a charter fishing boat and a commercial fishing boat licensed ...". Clearly, the Minister is referring to the use and the licensing of a charter boat. He is referring to fishing and catching. Those matters are clearly covered on page 55 in item [3] of schedule 7, which amends section 127C "Provisions relating to the licensing of charter fishing boats". The Minister is referring directly to those issues. I contend that he is anticipating this legislation and I would ask you to draw him back to that.

**The Hon. E. M. OBEID:** To the point of order: Obviously the Hon J. H. Jobling does not have a clue about this regulation and the charter boat business. I would have expected the Hon. Jennifer Gardiner to correct him, but, obviously, she is as ignorant as he is. The licensing and use of charter boat operators are one thing, and that is in the bill. The bill relates to anyone using a charter boat without a recreational fishing licence. In that event, operators must have a block licence for those who use the boat.

**The Hon. D. J. Gay:** Which licence are you talking about?

**The Hon. E. M. OBEID:** I am talking about charter boat operators who need a licence to operate in our waters.

**The Hon. D. J. Gay:** What is the difference between that licence—

**The Hon. E. M. OBEID:** They are two different licences. If any member of the public wants to use a charter boat but does not have a recreational fishing licence, the charter boat operator has to have a second block licence, as is contained in the bill, to cover those who do not have a licence. The recreational licence I am talking about belongs to charter boat operators to enable them to operate in our waters. It has nothing to do with the recreational fishing fee. The Hon J. H. Jobling does not have a clue what he is talking about.

**The Hon. J. H. Jobling:** Further to the point of order: If the Minister wishes to pursue it, item [4] of schedule 7 to the bill omits section 127D "Commercial fishing boats may be licensed as charter fishing boats". Therefore, the licensing of commercial fishing boats as charter fishing boats can be discussed in debate on the bill.

**The Hon. E. M. OBEID:** Further to the point of order: This is such a waste of question time in this House. There are about 1,800 commercial fishing businesses in this State, and some of them work only in season. There is a view out there that if the survey is not taken—

**The Hon. D. J. Gay:** What's this got to do with the point of order?

**The Hon. E. M. OBEID:** There are commercial fishers who would like to utilise some of their time to operate charters with a charter boat. They are entitled to take out a licence, if they pass the requirements. This is what the bill is about. It has nothing to do with the licence for a charter boat, which I am talking about.

**The PRESIDENT:** Order! I accept the Minister's assurances that the licence that he is speaking about is not the licence referred to in the legislation. The Minister may proceed.

**The Hon. D. F. Moppett:** We are confused. The charter boat operators are bewildered.

**The Hon. E. M. OBEID:** The Hon. D. F. Moppett has been confused all year. He does not have a clue about fisheries. Licensees will be required to keep comprehensive records of catches, which will help ensure vital research and provide information to the New South Wales Government. The new licence follows three years of extensive consultation with industry and the community. Since 1997 the Government has cautioned against investment in the industry, as capping of effort was a distinct possibility. Licensing of vessels caps effort.

Since July New South Wales Fisheries has received 290 applications for the new licences. To date 164 licences have been issued, and many operators are in the process of providing further information to New South Wales Fisheries. Two categories of licence are available: a transferable licence and a non-transferable licence. Subject to a number of other criteria, a transferable licence is issued for vessels with a minimum of 100 days history of fishing within a two-year period between October 1995 and August 1999. The non-transfer of a licence has the same assessment, but relates to satisfying a minimum requirement of 50 days.

A transferable licence allows the transfer of history from one operator to another operator, whereas the non-transferable licence cannot be passed on from the original entitlement holder. The Carr Government will ensure that the whole process of licensing is fair and equitable. Any operator whose application is denied will be able to appeal against the decision to an independent review panel. When an appeal is lodged with a \$100 fee the applicant—

**The Hon. Dr A. Chesterfield-Evans:** Point of order: If this is not about licensing of fishing boats as charter vessels, I do not know what is. The Minister could not be more on the subject of the bill if he tried. We have been told a story that the Minister's answer will not deal with this subject, but it is dealing with it. The Minister should be ruled out of order.

**The Hon. D. J. Gay:** To the point of order: It does not behove the Opposition or the crossbenchers to have to continue to raise points of order on the Minister. You, Madam President, have a responsibility to stop the Minister if he is breaching the ruling you made and the advice you gave. He has clearly continued to breach your ruling for some four minutes. I have given up raising points of order with you. Surely, you should take action yourself.

**The Hon. E. M. OBEID:** To the point of order: Quite obviously, the Hon. Dr A. Chesterfield-Evans, as usual, has not listened. The charter boat licence is one issue that was gazetted in July. It has been in the public arena for the past three years. The recreational fishing fee is another issue, and that is in the bill. The issue about charter boats is whether they have to have a block licence in the event that people that use their boats for fishing do not have a recreational fishing licence. It has nothing to do with this licence. This is purely a charter boat operator licence to operate in our waters. They are two distinct and different licences.

**The PRESIDENT:** Order! The Minister has convinced me that they are two distinct licences, and that what he is talking about is not anticipated in the bill. Please allow him to finish his answer.

**The Hon. E. M. OBEID:** When an appeal is lodged with a \$100 fee the applicant will be issued with an interim licence. The fee will be fully refundable should the appeal be successful. A management advisory committee will also be established for this fishery, and it will be actively involved in the establishment of a management plan for the fisheries. This new licence is a result of extensive consultation and co-operation from within the industry. I am sure that everyone's effort and co-operation will ultimately be rewarded with greater security for the industry and clients, and better management of the resource.

#### ROAD TUNNEL AIR FILTRATION

**The Hon. P. J. BREEN:** My question without notice is to the Minister for Mineral Resources, representing the Minister for Roads. Will the Minister confirm recent advice to the effect that the cost of providing in-tunnel filtration to all the city road tunnels would be \$111 million? Will the Minister also confirm his advice that this money would be better spent on improving country roads? Will the Minister advise how the figure of \$111 million has been calculated, and which road tunnels the figure applies to? Is a break-up available for the cost of in-tunnel filtration for each road tunnel?

**The Hon. E. M. OBEID:** That is a very important and serious question and I will attempt to get a specific and detailed answer to it from my colleague in the other House.



### COUNTRY LABOR MEMBERSHIP

**The Hon. R. H. COLLESS:** My question is to the Chairman of the Standing Committee on State Development. With reference to the Premier's claims at the weekend that Country Labor now has 5,900 members and 107 branches, will he, as the parliamentary leader of Country Labor, now confirm that those 5,900 members are also members of the New South Wales division of the Australian Labor Party? Will he also inform the House how many branches the Australian Labor Party has lost to Country Labor? Does he agree that the Premier's claims are misleading, given that the membership of Country Labor and the ALP are not separate in any way, shape or form?

**The Hon. M. R. EGAN:** The extraparlimentary membership or affairs of Country Labor are not the responsibility of any member of this Chamber.

**The PRESIDENT:** Order! I refer honourable members to my previous ruling. The affairs of political parties are not the concern of the Chairman of the Standing Committee on State Development.

### LIGHTNING RIDGE MINE REHABILITATION

**The Hon. I. W. WEST:** My question without notice is to the Minister for Mineral Resources. What is the Government doing to address environmental and safety risks posed by abandoned mine workings at Lightning Ridge?

**The Hon. E. M. OBEID:** I thank the Hon. I. W. West for his concern for the workers of New South Wales. After a century of continuous mining at Lightning Ridge large areas of land have been left in need of rehabilitation. Problems such as land degradation, erosion and open mine shafts pose risks to local people as well as livestock and native animals. The New South Wales Government is working with the Lightning Ridge Miners Association to tackle these problems. The Government is providing funds from its derelict mined land rehabilitation program and the miners association is contributing with both people and equipment.

At the Les's eight-mile opal fields the Government spent \$11,000 to rehabilitate and secure abandoned mine shafts. Several hectares of land around the claims have been mined or degraded by the dumping of unwanted soil and rocks. As well, open mine shafts throughout the area were a safety hazard. These abandoned shafts are required by government regulation to be secured with fencing to an approved standard. However, it was often the case that the fencing was removed illegally. A local contractor won the tender for the rehabilitation project, and then commenced fencing and land restoration in June last year.

It was predicted that 104 shafts would be involved in the rehabilitation project. However, the final number grew to 174 as new shafts were unearthed and mine waste was removed. About half of the treated shafts were fenced both for safety reasons and to encourage regrowth of native and introduced plant species that were seeded as part of this project. About 800 square metres of waste mine soil and rock was removed from the surrounding bush. The opal industry has indicated that it accepts its environmental responsibilities in the same manner that the mining industry as a whole has done in New South Wales.

Other rehabilitation projects for the opal fields are already in the pipeline. In the long run this will create a more positive image for the opal industry and will benefit the community at Lightning Ridge. Correct rehabilitation will enable the development of new areas without a repeat of the white ridges of dumped mine soil on the original opal fields, which now surround Lightning Ridge. These original fields are now preserved as a tourist attraction.

### ELECTRICITY INDUSTRY PRIVATISATION

**The Hon. Dr A. CHESTERFIELD-EVANS:** My question is directed to the Treasurer. Is it true that Don Anderson's Market Implementation Group is gearing up for the New South Wales electricity network with debt or a debt equivalent? If so, to what level is this gearing? Will it get into the same trouble as the Victorian industry, with asset write-downs limiting the ability to meet greenhouse gas targets? Does the Government intend to privatise either by stealth, like the South Australian Government, or use an alternative method for the same result?

**The Hon. M. R. EGAN:** I would not have thought that the South Australian Liberal Government had privatised by stealth. I thought it was engaged in a right royal battle for about two years! Nevertheless, that is

the sort of confused hodgepodge question we get from the Hon. Dr A. Chesterfield-Evans, who, as I have pointed out on previous occasions, never knows whether he is Arthur or Martha. What were his questions? Give me the piece of paper; he would not know what they were. You can always tell from someone's writing whether they are crackers: They write sideways, upside down and inside out. Have a look at this! The Hon. Dr A. Chesterfield-Evans puts it as the gearing up of the New South Wales electricity network. Was he not here when my colleague the Special Minister of State, and Assistant Treasurer gave the Budget Speech? Has he not been here for all of the questions I have answered in this House when I have explained what we have done?

**The Hon. Dr A. Chesterfield-Evans:** Why is it being geared up?

**The Hon. M. R. EGAN:** I will tell you. The electricity utilities have borrowed \$2,400 million and have increased their debt by that amount. They have paid that to consolidated revenue and we have reduced the general government debt by the same amount. The Hon. Dr A. Chesterfield-Evans has only just discovered that, and at least half a dozen questions have been asked about it in the House. As the Hon. J. H. Jobling indicates, I believe I have even answered a few Dorothy Dixers to explain why we have done it. I suggest the honourable member should get himself up to date, but more importantly I suggest he should pay attention. Instead of spending his life in a fog he should pay attention, then he would not waste question time with silly questions. He can have his question back. Have a look at it!

**The Hon. Dr A. Chesterfield-Evans:** Will you guarantee that you are not going to privatise it; that is the bottom line?

**The Hon. M. R. EGAN:** We are not privatising. Where have you been for the last four years? I would like to, but we are not.

#### **STEEL TANK AND PIPE MANUFACTURING COMPANY WORKERS ENTITLEMENTS**

**The Hon. C. J. S. LYNN:** My question without notice is to the Special Minister of State, and Minister for Industrial Relations. Is the Minister aware of the collapse of the Hunter Valley based manufacturing company Steel Tank and Pipe on 3 November? Is he also aware that 150 employees are owed \$3.3 million in unpaid entitlements and most of the workers affected are employed by shelf companies that have no physical assets and do not have the ability to pay workers their entitlements? What action is the Minister taking to ensure that these workers and their families are not left without their money in the lead-up to Christmas?

**The Hon. J. J. DELLA BOSCA:** It is quite a change for the Hon. C. J. S. Lynn to ask a good question. As I understand the developments and the press reports about which he speaks, the company was placed in receivership on 3 November. As the honourable member said, approximately 60 workers at the Carrington factory at Newcastle are currently undertaking industrial action over concerns about their entitlements, estimated to be \$3.6 million nationally, which will be lost due to the company's failure. If the press reports are correct—and my attention was drawn also to this morning's *Newcastle Herald*—the situation will be further exacerbated by an uncaring and unscrupulous employer utilising an artificial structure to employ workers through shelf companies that do not hold assets and do not have the ability to pay workers their lawful entitlements.

The New South Wales Government clearly sympathises with the plight of those affected employees. The Government believes that those responsible for the outstanding employee entitlements should pay for them: employers, where relevant; related companies; and directors, if responsible for the loss. New South Wales taxpayers should not have to pick up the bill of failed businesses. This company's failure once more accentuates the need for a comprehensive national scheme to protect employees' entitlements. Any national scheme should be based on the principle that those responsible for outstanding employee entitlements should pay for them and that employees should receive the entitlements they have earned and to which they are legally entitled.

Specific corporate reforms that have been advocated by New South Wales are the imposition of the liabilities of employers on related entities within a corporate group, and the courts being given discretionary power to make contribution orders directed to related companies and personal director liability where, for example, a director has not acted with due diligence to make provision for the payment of entitlements. Another corporate law reform deserving further examination is that of granting employees priority to entitlements over secured creditors. Parties as diverse as the Institute of Company Directors and Mr Foss, the Western Australian Attorney General, have called for examination of this approach, but at this stage the Federal Government has avoided representations of such a review. In summary, effective Corporations Law amendments have a role to play in reducing the potential claims on the overall cost of a scheme that is essential to ensure payments. To date New South Wales has received no response to its proposal from the Commonwealth.

### DRUG INFORMATION WEB SITE

**The Hon. R. D. DYER:** I ask the Special Minister of State a question without notice. Can the Minister outline the Government's efforts to provide information on its drug policies and on treatment options for drug users and their families?

**The Hon. J. J. DELLA BOSCA:** It gives me a great deal of pleasure to answer the honourable member's question. Earlier this month I launched the New South Wales Government's web site on drug issues: [www.druginfo.nsw.gov.au](http://www.druginfo.nsw.gov.au). The 1999 New South Wales Drug Summit highlighted the importance of providing information and public education on drugs so that as many families as possible will know about the harm and problems caused by drugs, and will be able to prevent or reduce these problems. The web site provides easy access to information about drugs, programs and measures being taken by the New South Wales Government and the community generally to address drug problems. The site includes the report of the Working Party on the Use of Cannabis for Medical Purposes and allows community feedback on the proposed trial to be emailed directly to the Office of Drug Policy. I look forward to receiving some responses.

There is no single solution to the drug problem; it has to be tackled on a wide range of fronts if we are going to make a difference. To affirm the Government's Act Now policy in the fight against drug abuse, the web site provides a direct link to CrimeStoppers so that illegal drug activities can be reported to the Police Service online. The web site is a great resource for anyone seeking information about treatment services and options for those seeking to improve their lives without drugs. It has links to Health Department information, for example, giving a comprehensive explanation of the use of naltrexone. It explains what the drug is, whom it might help, its side effects, its risks, the cost of treatment, what the treatment involves and information for families on supporting someone who is being treated with naltrexone.

The drug information site also lists residential rehabilitation options that are available around the State for people dependent on alcohol or other drugs. It lists the structured programs in drug-free settings provided by 35 non-government organisations. The site also addresses drugs in sport. There are links to the Australian Institute of Sport, which is one of the great opponents of the drugs scourge; the Canadian Centre for Ethics in Sport; the Australian Sports Drug Testing Laboratory; and the World Anti-Doping Agency. This site represents a co-ordinated approach adopted by the New South Wales Government in the fight against drug abuse.

The web site has been developed in consultation with the Premier's Department, New South Wales Health, the Police Service, the Department of Education and Training, the Attorney General's Department, the Department of Community Services and the Office of Information Technology. Obviously, there are no easy solutions to the drug problem. As honourable members will recognise, the State Government is committed to a range of innovative measures in partnership with the community to tackle the issue on a number of fronts. The druginfo web site will make sure people can have quick and accurate information and resources about these issues.

**The Hon. M. R. EGAN:** Madam President, if members have further questions they might like to place them on notice.

### PRISON SAFETY

**The Hon. J. J. DELLA BOSCA:** On 12 October the Hon. I. Cohen asked the Minister for Mineral Resources a question without notice regarding prison safety. The Minister for Corrective Services, being the appropriate Minister to answer the question, has advised:

Nearly \$7 million has been spent over the last five years in upgrading cells and removing potential hanging points. However, it should be noted that the Royal Commission into Aboriginal Deaths in Custody itself noted that no humane cell can ever remove every hanging point. Approximately \$80,000 has been spent at the Metropolitan Remand and Reception Centre to change shower rails and screens to reduce risk. Fan lights are being progressively covered with perforated mesh to remove potential hanging points. The Department of Corrective Services has been providing advice to the Victorian Government on action it has taken to eliminate possible hanging points in New South Wales correctional centres.

### NATIONAL PARKS NATURAL TROUT BREEDING

**The Hon. J. J. DELLA BOSCA:** On 11 October the Hon. M. I. Jones asked the Minister for Juvenile Justice a question without notice regarding natural trout breeding in streams. The Minister has provided the following response:

New South Wales Fisheries co-ordinates native trout breeding programs. The National Parks and Wildlife Service does not take any steps to prevent natural trout breeding in streams and headwaters in national parks and wilderness areas.

## RURAL DOCTORS COURT ATTENDANCE

**The Hon. J. J. DELLA BOSCA:** On 10 October the Hon. Helen Sham-Ho asked me a question without notice regarding court attendance by rural doctors. The Attorney General has provided the following answer:

Earlier this year, the Government introduced amendments to the Evidence (Audio and Audio Visual Links) Act 1998 to allow evidence to be taken from witnesses by video link or conference call. The Evidence (Audio and Audio Visual Links) Amendment Act 2000 commenced operation on 1 July 2000. The courts now have a statutory discretion to make orders for evidence to be given by video link or conference call, without first having to obtain the consent of all parties. All courts have the technology in place to accept evidence that is given by way of a telephone conference call. In addition, the number of country locations that can receive video evidence is being steadily expanded as existing remote witness (CCTV) facilities are upgraded.

## DRIVER FATIGUE TESTING

**The Hon. J. J. DELLA BOSCA:** On 10 October the Hon. J. S. Tingle asked me a question without notice regarding driver fatigue. The Minister for Police has provided the following response:

I refer to the question without notice asked in the Legislative Council on 10 October 2000 by the Hon. J S Tingle, MLC concerning the introduction of a test for motorists which is said to measure driver fatigue. I have received advice from Chief Superintendent R. A. Sorrenson, Commander, Traffic Services Branch that the Police Service does not intend to introduce the technology referred to at this time. Before any form of technology is introduced to measure driver fatigue levels, the Service would need objective confirmation that such testing is accurate, fair and practical to implement. The Minister for Transport has provided the following response:

With regard to the House of Representatives Standing Committee on Communications, Transport and the Arts inquiry into managing fatigue in transport, entitled "Beyond the Midnight Oil: An Inquiry into Managing Fatigue in Transport", last year I called for and approved a joint Roads and Traffic Authority (RTA) and Department of Transport (DOT) submission to the Inquiry. Both agencies also assisted the Inquiry by giving oral evidence at a formal hearing. The RTA subsequently provided, at the Committee's request, a substantial amount of supplementary information and gave a roadside demonstration of Safe-T-Cam for the members.

The Committee did not consult with the RTA or the DOT on any of its recommendations. This includes Recommendation 34 of the Committee's report which proposes, among other things, that State and Territory Governments be encouraged to make driving whilst fatigued an offence. In relation to Recommendation 34, the Committee recognised that to make such a law enforceable, a roadside fatigue testing technology would have to be developed to the point where it is sufficiently accurate and reliable for that purpose. The Committee therefore recommended that the Australian Transport Safety Bureau undertake the necessary validation work.

## NORTHPOWER ELECTRICITY ACCESS FEE

**The Hon. J. J. DELLA BOSCA:** On 10 October the Deputy Leader of the Opposition asked me a question without notice regarding NorthPower electricity billing Policy. The following answer has been provided:

I am advised by the Minister for Energy that the Government is aware of concerns regarding NorthPower's service access charge. NorthPower's service access charge is not a new charge. It was included in the charge for the first 200 units under the pricing structure that existed for many years prior to 1 May 1999. When NorthPower's pricing structure was changed in May 1999, the service access charge was presented separately. At the same time, the charge for the first 600 units of electricity was reduced which generally offsets the effect of presenting the service access charge separately. For most customers, the change would have a minimal effect on their bills after taking inflation into consideration. However, for some customers who use little or no electricity in a billing period such as holiday home owners, the change may have resulted in higher bills.

The service access charge reflects the significant costs of:

- providing bill management and electricity network services including the maintenance, operation and upgrading of substations, poles, lines, tree trimming and clearing; and
- funding NorthPower's 24-hour customer service, technical response, dispatch and system control centres and emergency response teams, all year round.

The separation of the service access charge from energy rates is designed so that all customers meet their fair share of the fixed costs associated with bringing a safe and reliable supply of electricity to every customer's home, farm or business. The increase in the service access charge is also intended to be more cost reflective for NorthPower as it restructures its prices to remove cross subsidies between customer classes and prepare for the transition to full retail competition in the electricity market.

The service access charge is only one component of the total electricity bill and so looking at it in isolation can be misleading. A more valid way to compare electricity prices is to consider energy rates and access charges together, to adjust for inflation where appropriate, and to use the same pattern and level of consumption. NorthPower's electricity prices (including the service access charge) for customers who do not have a choice of supplier are set in accordance with the electricity pricing determinations of the

Independent Pricing and Regulatory Tribunal of NSW (IPART). The changes in NorthPower's service access charges and energy rates accord with IPART's electricity pricing determinations.

The new pricing system is also fairer than the former system. Take for example, a holiday home that is seldom occupied which is located next to a residential home that is permanently occupied. Both premises are provided with a safe and reliable electricity supply whenever the occupants require the service. Under the former consumption-based pricing system, the fixed costs of making the service available are borne largely and unfairly by the residential home because little or no electricity is consumed at the holiday home in a billing period.

Under the new system, both premises make an equal and fair contribution to the fixed costs in bringing power supply to the premises, thereby removing the subsidies that existed between these customers. When electricity is used, the occupants pay separately for the actual amount of energy consumed. IPART allows considerable flexibility for the distributors to set individual electricity tariffs. However the distributors are obligated under the *State Owned Corporations Act 1989* to be successful businesses and to operate at least as efficiently as any comparable business. Electricity prices (including those for community organisations) therefore need to reflect the costs of supply for the distributors.

### UNIVERSITY OF NEW SOUTH WALES OATLEY CAMPUS SITE

**The Hon. J. J. DELLA BOSCA:** On 10 October the Hon. Dr P. Wong asked me a question without notice regarding Oatley Campus site super school. The Minister for Education and Training has provided the following answer:

The establishment of the Georges River college is well advanced. On 3 March 2000 the Minister announced the formation of Georges River College, a collegiate of three local secondary schools comprising Hurstville Boys High School, Peakhurst High School and Penshurst Girls High School. The senior campus of the College, along with components of TAFE, adult and community education and, it is anticipated, a university will be accommodated on the Oatley site. Planning for the senior campus of the college has been undertaken over the past two school terms by 11 joint school teams, including more than 100 staff and parents. Consultation has not only involved these committees but parent and student meetings and surveys. Parents and the wider community have been kept informed through a regular College newsletter.

The principal, deputy principal, head teachers and most teaching staff have been appointed to the senior campus. Resulting vacancies on the College's other campuses are in the process of being filled. An enrolment of 450 students has been accepted. More than 90 applicants are on a waiting list, of which approximately 45 per cent are from the non-government system. The Government has allocated \$14 million for the refurbishment of the site. The capital works program is proceeding smoothly and is on schedule. The senior campus will open with year 11 at the beginning of the school year in 2001. Year 12 will commence in 2002.

Georges River College is structured as three middle schools, Years 7-10 at Hurstville Boys High School, Peakhurst High School and Penshurst Girls High School, and a senior campus, Years 11-12, at the Oatley campus. Georges River College will provide students with unprecedented opportunities. Senior students have much greater curriculum choice so that they can study those subjects that are of greatest interest and use them in preparing for further education, training or employment. In Year 11, students will undertake any of 53 courses on offer. Students can study every course in English, Mathematics, Science, Technology and Applied Sciences, Personal Development, Health and Physical Education, and the Creative and Performing Arts. They can study any of three languages in Chinese, Japanese and Modern Greek.

Subjects within Human Society and its Environment include six classes of Ancient and Modern History and seven classes of Business Studies. There are 18 classes in six vocational education courses counting towards a University Admission Index, and another five classes in four TAFE courses taught on site and three classes in two TAFE courses taught off site. In addition to TAFE courses in Years 11 and 12, it is anticipated that students will be able to undertake some university courses in year 12.

The senior campus offers unparalleled facilities. Classrooms are linked to seminar rooms and open space learning areas or practical workshops. There are theatrettes, a large theatre, a state of the art Information Technology Training Centre, a joint school-TAFE library, a dance studio, a drama studio, a gymnasium, a cafeteria and playing fields that are floodlit. These facilities are located on a picturesque landscaped site.

The senior campus will also provide a more adult learning environment. The site will only be attended by senior secondary students and adult students from TAFE, adult and community education and, it is anticipated, a university. The focus on senior secondary schooling will facilitate the adoption of teaching methods, student welfare practices and extra curricular programs most suited to young adults. The quality and design of the facilities will foster a different ethos. Such an environment will promote a more mature and studious approach by students and better prepare them for further education, training and the world of work.

The year 7-10 structure of the three other campuses will enable staff to focus on middle schooling strategies. Improving outcomes for adolescent students has become a priority in the education systems of all industrialised countries. The Year 7-10 campuses of Georges River college will be able to implement best practice in middle schooling without the demands of preparing students for their Higher School Certificate. These practices include primary-secondary links, primary-secondary transition, integrated programs, more flexible lessons, more engaging teaching methods, more systematic student welfare, teacher teams and increased leadership opportunities.

Professional development will be provided at the senior and middle school campuses to support the implementation of these very significant opportunities for improving student outcomes.

## EDUCATION AND TRAINING RESOURCE ALLOCATION

**The Hon. J. J. DELLA BOSCA:** On 10 October the Hon. Patricia Forsythe asked me a question without notice regarding education and training plans. The Minister for Education and Training has provided the following answer:

The Government is not proposing to offer redundancies to school teachers.

## GOVERNMENT LEGAL SERVICES

**The Hon. J. J. DELLA BOSCA:** On 10 October the Hon. P. J. Breen asked me a question without notice relating to Government legal services. The Treasurer has provided the following answer:

I refer the honourable member to the answer given to his Question on Notice No. 42, that he asked me earlier this year.

## POLICE SERVICE GUIDELINES

**The Hon. J. J. DELLA BOSCA:** On 10 October the Hon. J. F. Ryan asked me a question without notice regarding Police Service guidelines. The Minister for Police has provided the following answer:

I refer to a question without notice asked by the Hon J Ryan, MLC, on 10 October, 2000 concerning the prosecution of drivers who knock over pedestrians and whether police have a policy not to take court action unless the victim requires surgery. An appropriate response is provided below.

Advice by the Deputy Commissioner, Field Operations, indicates that the Police Service Guidelines specifically require police to attend and investigate motor vehicle accidents where someone is killed or injured. The Deputy Commissioner also advised that there is no policy restricting police from taking action where a pedestrian is injured. In fact a police officer has three options: the issue of a traffic infringement notice; proceed by way of summons; or charge the offender. As to the pedestrian accident Mr Ryan mentioned, I am advised this was investigated by police and it was determined that the appropriate action was to issue the offender with an infringement notice.

## REGIONAL TOURISM FUNDING

**The Hon. J. J. DELLA BOSCA:** On 13 October the Hon. R. H. Colless asked me a question without notice regarding country tourism funding. The Minister for Small Business and Minister for Tourism has provided the following answer:

I am advised there has been no reliable measurement to date of the short term effect of the Olympic Games on tourism in regional New South Wales. Anecdotal evidence suggests that a number of regions did well during the period of the Games; particularly those closer to Sydney. The tourism benefits for New South Wales of the Olympic Games have always been seen as longer term. Largely as a result of the media program conducted by Tourism New South Wales at the Sydney Media Centre before and during the Olympic Games, regional New South Wales received significant and valuable overseas promotion. Tourism New South Wales has, overwhelmingly, received feedback that regional tourism operators expect an increase in their business as a result of the Games. This increase will be facilitated by the wide range of programs the Government has in place to assist regional tourism.

## M5 EAST SINGLE EXHAUST STACK

**The Hon. E. M. OBEID:** On 11 October the Hon. R. S. L. Jones asked me a question without notice regarding air pollution. The Minister for Transport has provided the following answer:

I am advised that while studies of air pollution and health use PM<sub>10</sub> as a proxy for health outcomes, the health effects do not come only from that pollutant but are correlated with a wide range of pollutants such as ozone and nitrogen dioxide. These pollutants are not removed by electrostatic precipitators thus it is a significant overestimate of the effect of the PM<sub>10</sub> to say that all deaths attributed to that type and amount of air pollution are preventable. I am further advised that the M5 East stack would contribute only a very, very minor proportion of the level of regional pollutants. As part of the conditions of approval for that project, the Roads and Traffic Authority is required to contribute to a regional air quality strategy to more adequately address the issue of the reduction of pollutants.

## CAMBEWARRA ROAD SAFETY

**The Hon. E. M. OBEID:** On 11 October the Hon. D. T. Harwin asked me a question without notice regarding Cambewarra road improved safety features. The Minister for Transport has provided the following answer:

The Nowra/Kangaroo Valley/Fitzroy Falls Road traverses steep terrain at the Cambewarra and Barrengarri Mountains. The existing alignment is consistent with the nature of these passes and other similar routes with steep grades and tight bends such as Macquarie Pass and Bulli Pass. As with all roads, it is important that motorists drive to the prevailing conditions in terms of speed and the weather.

However, these conditions can present problems for heavy vehicles passing opposing traffic and have led to the fencing on a 800 metre long section of this road at Cambewarra Mountain being damaged. The damaged fence has been temporarily replaced with florescent orange plastic 'para-webbing' due to the limited road width within which to install new fencing or guardrail posts.

Special techniques will be required to safely improve road conditions in this difficult mountainous terrain and investigations into several repair options are currently under way. Once these are completed, work will be undertaken as quickly as possible. With regard to the route in general, an ongoing program of minor realignment, curve widening and pavement works will continue to be carried out at selected locations on this road to provide a consistent standard of safety for all road users, including drivers of heavy vehicles.

### **GLENBROOK RAIL ACCIDENT INQUIRY BUDGET**

**The Hon. E. M. OBEID:** On 13 October the Hon. J. H. Jobling asked me a question without notice regarding the McInerney inquiry costs. The Minister for Transport and Minister for Roads has provided the following answer:

All assistance is being given to the McInerney inquiry. The inquiry is currently in session. Final costs will be known at the completion of the inquiry.

### **DEFERRED ANSWERS**

The following answers to questions without notice were received by the Clerk during the adjournment of the House:

#### **ORAL CONTRACEPTIVES AND BREAST CANCER**

On 13 October the Hon. Elaine Nile asked the Treasurer, Minister for State Development, and Vice-President of the Executive Council a question without notice relating to oral contraceptives and breast cancer. The Minister for Health provided the following response:

The eleven-fold risk of breast cancer for users of oral contraceptives as reported in the 11 October 2000 issue of the *Journal of the American Medical Association* (JAMA), only applied to less than 10 per cent of the families studied. The findings applied to women who used oral contraceptives before 1975 and who came from families with a very high risk of breast cancer, such as families with five or more relatives affected. The New South Wales Breast Cancer Institute has advised that other large studies of the same issue have not revealed associations between breast cancer and oral contraceptive use in women with a family history.

#### **NORTH COAST ELECTIVE SURGERY WAITING LISTS**

On 12 October the Hon. Dr B. P. V. Pezzutti asked the Treasurer, Minister for State Development, and Vice-President of the Executive Council a question without notice relating to elective surgery. The Minister for Health provided the following response:

I refer the honourable member to my answer to Question 512 in which I advised that \$10 million has been allocated to area health services for the management of elective surgery in 2000-01 as part of the Government Action Plan for Health.

Growing waiting lists are an issue for every Australian State and Territory. In June 2000, 30 per cent of people on the waiting lists in Western Australia were waiting more than a year for their surgery. In Queensland, 32 per cent of people on the list were waiting more than 12 months for their operations. At the same time, in New South Wales only 14 per cent of people waiting for elective surgery had waited more than 12 months.

#### **HOSPITAL PATIENTS EARLY DISCHARGE**

On 11 October the Hon. Helen Sham-Ho asked the Treasurer a question without notice relating to early discharge from hospital. The Minister for Health provided the following response:

With improvements in medicine, the average length of time patients spend in hospitals is reduced. Advances in technology and less invasive surgical procedures require shorter stays in hospitals.

The average length of stay is also reduced as New South Wales public hospitals move towards their target of admitting 80 per cent of patients on the day of their surgery rather than one or two days beforehand.

Effective discharge processes are an integral part of health service delivery and discharge planning has been, and continues to be, a focus point for continuous improvement strategies. The focus is on appropriate and planned discharge rather than early discharge.

The Acute Care Implementation Group, which includes clinicians, health service managers and consumers, was established under the Government's Action Plan for Health. The group is looking at ways to establish better communication about discharge and planning between patients, hospital clinicians and general practitioners to further improve health outcomes for patients.

Under the auspices of the Models of Care Implementation Co-ordination Group, a working party is developing a primary health and community health reinvestment strategy. The working group will identify priority areas for reinvestment of funds in community health and primary health care services as part of the Government Action Plan for Health. The reinvestment strategy will focus on the post-acute care needs of those people who are aged and chronically ill, and on enhancing the capacity of community health services to link with acute services and with general practice.

#### **MARKET IMPLEMENTATION GROUP ELECTRICITY INDUSTRY PROPOSAL**

On 11 October the Deputy Leader of the Opposition asked the Treasurer, Minister for State Development, and Vice-President of the Executive Council a question without notice relating to the market implementation group electricity industry proposal. The Treasurer provided the following response:

- New South Wales is spearheading a national approach to implementation of full retail competition for electricity customers to maximise the benefits for the community as soon as possible. A three- stage implementation timetable has been developed.
- The New South Wales Government has released a discussion paper outlining proposals for dispute resolution, including that the existing Ombudsman scheme will remain in place for customers consuming less than 160 mwh a year.
- The Government has also released a number of further discussion papers covering proposed arrangements for:
  - marketing of electricity to customers;
  - contractual arrangements to apply for customers;
  - customer transfer rules;
  - metering and settlements in the market; and
  - trading arrangements to support FRC.
- These papers were prepared by the Market Implementation Group [MIG] of NSW Treasury, and have been released for consultation to New South Wales stakeholders. They are available on Treasury's web site.
- MIG is also charged with providing advice on the full range of issues affecting the Government's electricity businesses. MIG is considering the best arrangements to manage the risks faced by the Government-owned businesses, which are operating in an increasingly competitive national market.

**Questions without notice concluded.**

#### **ELECTRICITY INDUSTRY PRIVATISATION**

##### **Personal Explanation**

**The Hon. C. J. S. LYNN**, by leave: I wish to make a personal explanation regarding an allegation made by the Premier in another place during question time today. I have been advised that the Premier alleged that I made a statement to a western Sydney business forum in regard to a Coalition policy on electricity privatisation and a link to the M4 and M5 tolls. I have not addressed any western Sydney business forum on this issue. The only comments I have ever made in regard to the M4 and M5 tollways relate to the lies by the Premier in the lead-up to the 1995 election, when he promised to lift the tolls.

**The Hon. J. J. Della Bosca:** Point of order: The honourable member is abusing his privilege to make a slur against the character of the Premier during a personal explanation. I draw your attention to Standing Order 81.

**The PRESIDENT:** Order! By way of personal explanation a member may explain matters of a personal nature. However, in doing so the member should not debate such matters and should certainly not seek to abuse other members.

**The Hon. C. J. S. LYNN:** I thank you for that advice, Madam President. I accept your ruling. The only view I have had on privatisation is that this Government was elected on a policy of no privatisation, and we intend to keep the Government to that policy. It is not a matter of public or private ownership; it is a matter of good financial management. The Premier should be aware that he cannot cover the blatant lies that he told about the M4 and M5 tollway with another lie in this Parliament. And besides, who would want to buy the electricity industry after five years of Labor mismanagement? It is loaded with debt and billion-dollar losses. I simply did not address any forum nor did I make that statement.



**FISHERIES MANAGEMENT AND ENVIRONMENTAL ASSESSMENT  
LEGISLATION AMENDMENT BILL**

**Second Reading**

**Debate resumed from an earlier hour.**

**The Hon. R. S. L. JONES** [5.15 p.m.]: The Australian Fishing Tackle Association also claimed that the proposed commercial buyout in Sydney's Botany Bay and in Lake Macquarie was "nothing more than political pork-barrelling"—or perhaps boondoggling, in the words of another. I do not agree. I think it would be a good idea to consider buying out commercial fishing in Sydney Harbour as well, which would allow much more recreational use of the fish, not from the point of view of catching but from the point of view of looking at the fish. There are many people who swim in Sydney Harbour with snorkels and fins who like to look at live fish rather than watch dead fish being dragged up. I do not agree with the Australian Fishing Tackle Association on the question of Botany Bay and Lake Macquarie. It is urgent that the commercial effort be bought out or reduced in those areas for the benefit of all people who wish to see fish stocks recover.

The challenge is to address all of the influences which are impacting and diminishing the resource. A detailed plan of management for sustaining fish stocks, including sustainability indexes and trigger points for fishing effort reduction, needs to be developed rather than the resource merely reallocated from commercial fishers to recreational fishers. Each fishery should also be assessed and that assessment should be independently audited before any access is granted to fishers. Secure access should only also be granted to commercial fishers where their activities have been found to be sustainable and have caused minimal impact on the marine environment. There is, of course, a need for the recreational sector to contribute to the cost of management, research, even enforcement, and education. At present these activities are funded through the public purse and most people do not fish on a regular basis. Even the Recreational Fishing Alliance of New South Wales Inc. has admitted, in a press release dated 22 October 2000: There needs to be effective management of our State's fishery and that ... at some stage in the past "all users", commercial, recreational and the public, in one way or the other, have contributed to the current demise of our fish resource and environment.

While recreational fishers are required to pay \$25 to fish in a freshwater stream, river, lake or dam in this State, they are free to cast their lines in any estuary or lagoon and in the ocean without contributing to the management and sustainability of fish stocks. This anomaly needs to be corrected. The Minister should therefore be congratulated on the introduction of this fee, which will be able to provide the funds necessary to significantly enhance fish populations and conserve species which otherwise may die out. However, as Craig Woodfield, a member of the Minister's advisory council on recreational fishing, stated in the autumn 2000 "Marine & Coastal Community Network Newsheet", a licence can only truly be justified if it has specific and tangible benefits for the environment, recreational anglers and the community at large. Let us therefore make sure that the revenue from the licence works hard to maintain and enhance fish habitat and populations.

**The Hon. Dr A. CHESTERFIELD-EVANS** [5.18 p.m.]: A great deal has been said by the relevant stakeholders about the Fisheries Management and Environmental Assessment Legislation Amendment Bill. I have had considerable consultations with commercial fishing industry groups, ProFish, the New South Wales Seafood Industry Council, Oceanwatch, conservation groups such as the Total Environment Centre and the Nature Conservation Council, and the Fishing Party, a political party established in response to the New South Wales Fisheries' politicisation of fishing in New South Wales. Some aspects of the bill have received a positive response. The Minister for Mineral Resources, and Minister for Fisheries has acknowledged that for more than a hundred years the management of our State fisheries has been severely neglected.

I acknowledge the Minister's efforts so far to change the situation. There are huge problems. The problem of by-catch and the lack of data on it are extremely serious. This has been alluded to by the Hon. Barry Jones, who spoke yesterday on the appalling lack of data in many situations. The bill is a bold and contentious piece of legislation. The Minister, in his many briefings to the crossbench, has said that the bill is equitable and represents the best interests of all stakeholders concerned. I am afraid that I cannot quite agree. The Minister is a believer in a sort of elitist democracy in which bureaucrats and elected representatives keep the electors at arms-length. There may be consideration of the expressed interests but at the end of the day the Government knows what is best. The Minister has engaged with stakeholders but I fear that he has not been listening.

As I have said in this House previously, Manning Clark said that there are three sorts of people in Australia: squatters, convicts and overseers. The overseers tugged their forelocks at the squatters—to whom

they gave the best of everything for no apparent reason other than that they seemed to be in a state of bluff—and then the overseers bullied the convicts. I am afraid that governments in Australia—and this Government in particular—have been like overseers. They tug their forelocks to political power and they bully the community in general. This bill follows traditional behaviour, which was apparent during the rum rebellion and convict times, and continues in this Chamber.

The Minister has dismissed the legitimacy of several interest groups involved in this bill. However, it is interesting that my office has not received any letters of support for this bill from private citizens, let alone any stakeholder groups. The Minister attacked the credibility of groups such as ProFish, the Seafood Industry Council and the Nature Conservation Council, which are highly credible peak groups, and suggested that they are small and unrepresentative. However, no groups, and, amazingly, no individuals, have expressed support for the bill.

I should like to speak briefly about the contents of the bill. Schedule 1 will amend the application of the Environmental Planning and Assessment Act 1979 in relation to fishing activities under part V of that Act. Although the Minister and many involved in the commercial fishing industry acknowledge the need to ensure the sustainability of fisheries in our State, a point of contention is the way the commercial fishing industry is to be rationalised. Schedule 5 relates to the acquisition of commercial fishing entitlements. The Standing Committee on State Development received its terms of reference on 1 May 1996, which included, among other things, that the committee inquire and report on the implementation and administration of the Fisheries Management Act 1994. Recommendation 31 of the report states:

NSW aquatic resources, including fish and fish habitat, be assessed as part of the continuing the work of Resource and Conservation Assessment Council (RACAC) so as to provide an accurate, current and ongoing assessment statement of the state of New South Wales fisheries.

The standing committee made that recommendation after considering "that the sustainability of the State's fisheries are presently under direct threat from over-exploitation, by both recreational and commercial fishers, and indirect threat through habitat degradation." The report continued on page 333:

The sustainability and equitable distribution of the State's fisheries resources is dependent on allocation mechanisms which provide management agencies with objective, rigorous and defensible advice and habitat protection initiatives that can effectively work within the complex and sometimes conflicting existing regulatory framework.

It will implement environmental assessments of all fisheries in this State, taking into consideration the take of commercial and recreational fishing activities, harvesting methods, the significant impacts of surrounding land use and pollution, alternative management approaches and indigenous fishing rights. It provides public consultation participation in developing management plans. It should provide a level of confidence and transparency in fishing decisions that has not existed in the administration of fisheries in New South Wales. It is the basis for resolution of the conflicts that have plagued fisheries in this State for decades and will assure the public of New South Wales that there will be fish resources for generations to come.

The key problem with the bill is its lack of transparency. As the Minister said, a roundtable is proposed in the bill, but in the end the expertise remains departmental expertise and the final say rests with the Minister. That is the case with many bills; they are controlled by the Minister, they are not transparent processes. The Government seems to have a genuine cognitive difficulty with this, but the Minister produced a comparison with my fisheries bill, which defined not a RACAC process but a fisheries equivalent of that process, in which the expertise was kept separate from the Government. The approval process was separate from the department, which is perceived as a protagonist within the fishing industry and is not neutral. It provides expertise to groups that invest in aquaculture. It might be involved in aquaculture programs or the assessment and implementation of those programs. It might have political considerations with regard to marginal electorates and estuaries.

Recreational anglers, commercial fisher groups, environmental groups and farmers may not appear to have been co-operating, but in the end they agreed that they wanted a transparent process. They were so unhappy with the Minister that they came to see me and asked me to include certain things in a bill, having worked out the transparent process and model that they wanted. That is nothing short of extraordinary. It is the Minister under whose aegis all this should happen, yet I have encompassed all this in the bill that I recently introduced. The elements of this transparent process have been included in amendments to try to make the process transparent. We will include the good, comprehensive parts of the bill but will make the assessment process more transparent and have expertise beyond merely that of the department.

The interests of farmers in estuaries and their land use, the interests of recreational fishers, charter boat operators and commercial fishers, and the concerns of environmental and diving groups will be taken into

account. Possible solutions will then be thrashed out publicly in an open forum, which will make the process much easier than if it were decided by a committee which the Minister has considerable influence in selecting and which does not have overarching powers against the resources of the Minister and his department. That is a critical element. The Minister said there was no money for a RACAC process, but there is apparently plenty of money to pay the department. People under the Minister's control can be paid but there can be no independence. Barry Jones spoke yesterday about education and said that one of the greatest losses in Australia is the loss of independent expertise in our community, in particular from the academic sector because it is no longer funded.

Nowadays they have to raise their own money by undertaking consultancy work for the private sector. That may seem harmless enough, but the point is if people who are beholden to a group for consulting work know that the publication of a piece of academic work may not be in their interests they would be reluctant to do something that might materially affect their livelihood or the department. In a sense we face the same problem. The restriction of the public resource of information, the demeaning of the generation and processing of information—in this case in relation to Fisheries, but in other instances in relation to other fields of academia—has meant that we cannot have someone other than a government department with the expertise to contribute to these decisions or to undertake these sorts of scientific studies. That is against the trend that we need; it is against democracy, and it is against honest inquiry but, unfortunately, the Minister cannot see it. He wants to concentrate power in his own area. The schedule that he has produced, which is five pages long, comparing the features of my bill with his bill—

**The Hon. E. M. Obeid:** I do not have a copy of that.

**The Hon. Dr A. CHESTERFIELD-EVANS:** You are welcome to a copy. The schedule suggests that the difference between my bill and the Minister's bill is minimal when that is in fact not the case. I have received a number of letters from the Environmental Liaison Office and from the New South Wales Seafood Industry Council seeking support for some amendments. They include: ProFish; Master Fish Merchants of Australia; the New South Wales Fishermen's Co-operative Association; Oceanwatch Australia Ltd; the Oyster Farmers Association of New South Wales Ltd; and Sydney Fish Markets Pty Ltd.

They are very significant groups in the industry that are looking at the assessment process. Obviously, if the assessment process is undertaken properly, there will be an acceptance of its conclusions. I believe that if the Minister were to accept my modest amendments to the assessment process and relinquish some of his theoretical power, he would gain immense status. He would also have the benefit of consensus that would be very helpful to him and prevent disputes in the years ahead. I ask that the Minister give serious consideration to the range of amendments that will be introduced, because this transparency and independence of the assessment process will greatly improve his bill and make it one that we can support.

**The Hon. Dr B. P. V. PEZZUTTI** [5.33 p.m.]: I move:

That this debate be adjourned until Tuesday 21 November 2000.

**The House divided.**

#### Ayes, 18

Mr Breen	Miss Gardiner	Ms Rhiannon
Dr Chesterfield-Evans	Mr Gay	Mr Samios
Mr Cohen	Mr Harwin	
Mr Colless	Mr R. S. L. Jones	
Mr Corbett	Mr Lynn	<i>Tellers,</i>
Mrs Forsythe	Mr Pearce	Mr Jobling
Mr Gallacher	Dr Pezzutti	Mr Moppett

#### Noes, 20

Ms Burnswoods	Mr Macdonald	Mr Tingle
Mr Della Bosca	Mrs Nile	Mr Tsang
Mr Dyer	Reverend Nile	Mr West
Mr Egan	Mr Obeid	Dr Wong
Ms Fazio	Mr Oldfield	<i>Tellers,</i>
Mr Hatzistergos	Ms Saffin	Mr Johnson
Mr Kelly	Mrs Sham-House	Mr Primrose

#### Pair

Mr Ryan

Ms Tebbutt

**Question resolved in the negative.**

**Motion for adjournment negatived.**

**The Hon. Dr B. P. V. PEZZUTTI** [5.40 p.m.]: I move:

That this debate be adjourned until Wednesday 15 November 2000.

**The Hon. J. R. Johnson:** Point of order: The House has made a decision. The honourable member is trifling with the House.

**The Hon. J. H. Jobling:** To the point of order: The House decided on a matter of deferral. It is entitled to entertain a motion of deferral to a different date, as proposed by my colleague the Hon. Dr B. P. V. Pezzutti. To that end, the Hon. J. R. Johnson knows that it is the right of the House to so determine.

**The Hon. J. R. Johnson:** Further to the point of order: It is not the right of the House to trifle.

**The PRESIDENT:** Order! I uphold the point of order of the Hon. J. R. Johnson: members should not trifle with the House. However, it may be in order for another member to seek to move to adjourn the debate to another date.

**The Hon. Dr B. P. V. PEZZUTTI** [5.42 p.m.]: I move:

That this debate be adjourned until Thursday 16 November 2000.

**The PRESIDENT:** Order! I have already ruled that it is not in order for the member speaking, who moved the previous motion, to trifle with the House. However, it may be in order for another member to move that debate be adjourned to another date.

**The Hon. J. H. JOBLING** [5.43 p.m.]: The matter before the House relates to the Fisheries Management and Environmental Assessment Legislation Amendment Bill. I move:

That this debate be now adjourned until Thursday 16 November 2000.

**The House divided.**

#### **Ayes, 20**

Mr Breen	Mr Gay	Mrs Sham-Ho
Dr Chesterfield-Evans	Mr Harwin	Dr Wong
Mr Cohen	Mr R. S. L. Jones	
Mr Colless	Mr Lynn	
Mr Corbett	Mr Pearce	
Mrs Forsythe	Dr Pezzutti	<i>Tellers,</i>
Mr Gallacher	Ms Rhiannon	Mr Jobling
Miss Gardiner	Mr Samios	Mr Moppett

#### **Noes, 19**

Ms Burnswoods	Mr Kelly	Mr Tingle
Mr Della Bosca	Mr Macdonald	Mr Tsang
Mr Dyer	Mrs Nile	Mr West
Mr Egan	Reverend Nile	
Ms Fazio	Mr Obeid	<i>Tellers,</i>
Mr Hatzistergos	Mr Oldfield	Mr Johnson
Mr M. I. Jones	Ms Saffin	Mr Primrose

#### **Pair**

Mr Ryan

Ms Tebbutt

**Question resolved in the affirmative.**

**Motion for adjournment agreed to.**

## ASSENT TO BILLS

Assent to the following bills reported:

Adoption Bill  
Children and Young Persons (Care and Protection) Miscellaneous Amendments Bill  
Community Relations Commission and Principles of Multiculturalism Bill  
Road Transport (Safety and Traffic Management) Amendment (Blood Sampling) Bill  
Rural Assistance Amendment Bill

## WORKERS COMPENSATION LEGISLATION AMENDMENT BILL

### Second Reading

**Debate resumed from 1 November.**

**The Hon. M. J. GALLACHER** (Leader of the Opposition) [5.50 p.m.]: In debating the Government's program for reform of this State's workers compensation scheme, I put on the record from the outset the Coalition's disappointment that the Minister for Industrial Relations has failed to tackle the real issues that affect the scheme. Instead he has elected to finetune a scheme that many in the community speculate will be incapable of providing security for both employee and employer alike unless significant developments are implemented to turn the system around. To his credit, the Minister has at least introduced to this place what he refers to as the first tranche of reforms. However, I believe I am on solid ground when I suggest that they are nothing more than a collection of ideas cobbled together in a hurried endeavour to cater to a crossbench that is rapidly losing confidence in the ability of the Government to bring about effective change.

This Government went to the polls in 1998-99 with a blueprint for reform. It promised legislation based on the findings of its own commission of inquiry, widely known as the Grellman report. It courted the business community and said that it knew what had to be done. Legislation was passed to bring about private underwriting of workers compensation, only to be frozen for 12 months. Later it was put into deep hibernation by this Minister after he prised the workers compensation portfolio from the fingers of the former Minister, who knew at that moment that he too was spiralling into political extinction.

The Premier talked about the need to bring about partnership in workers compensation—that is, workers and employers coming together on an equal footing with the sole purpose of reaching agreement on the future. The passage of this legislation will, unfortunately, be an admission by this administration that since 1995 it has had the scheme on the wrong co-ordinates and rather than run the risk of hitting a reef it has decided to turn about and head back to port. This amending legislation is not about a new direction in workers compensation, it is merely tacking back from whence we came.

Now more than at any other time the community of New South Wales wants leadership and honesty about how this Government intends to rectify a scheme that is patently out of control. The insurance industry wants to know if the Government is still committed to a system of a privately underwritten insurance scheme—or is the industry, unfortunately, correctly reading the telltale signs? The business community wants to know why the Government intends to make it the scapegoat for the Government's maladministration of the system by hitting the community with a debt recovery levy on top of exploding premiums. The workers of this State want to know if the Government is going to do to them what it has done to every motorist in this State.

We have all been promised so much in the past with little to show at the end of the day. Why should we trust this Minister now that he has his hands on the tiller, when we have been misled by those we trusted before him? There can be little doubt that this legislation is nothing more than a spirited attempt to fend off the need for a select inquiry into workers compensation. That need has been vindicated by the legislation and by the supporting documents that were circulated by the Minister in the lead-up to the draft legislation, which were forcibly tabled in this Chamber last month.

I have no doubt that most members would consider that this legislation, on the face of it, is consistent with the Government's ongoing commitment and approach to reform. It is only when one considers the implications of these reforms in light of earlier comments that we are witnessing legislation on the run. Much has been said in this place for many years about reforming workers compensation, with the catalyst for reform being this Government's own initiated inquiry, the Grellman report. It is an interesting exercise to look at the background to this inquiry and consider how some things have changed whilst others have not. In 1997 the

Government was forced to increase premiums that were paid by employers from a gross payroll figure in 1994-95 of 1.8 per cent to 2.8 per cent in 1996-97 to fund the growing liability. In the main, the average premium has since hovered around the 2.8 per cent to 2.9 per cent figure.

However, as I will discuss later, there is plenty of anecdotal evidence from around the State that this figure distorts the fact that many businesses are nowhere near this percentage. While average premiums have remained fairly steady, the same cannot be said for the unfunded liability of the scheme which, at the time of the Grellman report in 1997, was \$454 million. By today's figures the amount has exploded to at least \$1.6 billion or up to \$2 billion, depending on whose actuary one talks to. When one considers that the Government increased average premiums from 1.8 per cent to 2.8 per cent to arrest the spiralling debts, it is obvious that the Carr Government has failed in its management of the scheme to achieve this result.

The Grellman inquiry considered best practice from not only around Australia but also around the world and called heavily on the American experience, in particular, what is known as the Wisconsin model. Richard Grellman referred to the Wisconsin model as the role model status in the United States of America. Without a doubt, the most strikingly innovative feature of this scheme was the statutory establishment of the Workers Compensation Advisory Council. In the administrative inventory of the scheme, which was conducted in 1993, the stability of the Wisconsin system was attributed in the main to the attractiveness of the Workers Compensation Advisory Council to bring about effective reforms through a process of negotiation, public hearings and commitment by all sides to resolve the problems facing the scheme, irrespective of their personal differences.

The advisory council model was not a new approach to managing the scheme, it having been in place since 1911 but formally recognised by statute in 1963. This model was to become a central plank for reforming the system in New South Wales following the recommendations of the Grellman inquiry. The New South Wales Workers Compensation Advisory Council was made up of employee and employer representatives and other stakeholders, including insurance and medical practitioner representatives, together with representatives from both government and WorkCover. The effectiveness of the advisory council to date is arguable. However, when one considers the widely respected model that has been in place in Wisconsin—a council that will celebrate its one hundredth anniversary in 11 years time—are we in a position to evaluate the value of a council in New South Wales at this incredibly early stage?

This legislation does not evaluate the value or, indeed, the potential of the advisory council; it kills it off once and for all. With the passing of this legislation, is the Government saying that the great experiment, the partnership between business, unions and government, has failed? If so, when will the Minister for Industrial Relations announce the same demise of the State Labor Advisory Council, or has this body already died, as we on this side of the Chamber suspect, and been buried in an unmarked grave somewhere down near Sussex Street?

If the Workers Compensation Advisory Council has failed, then responsibility for the failure falls right at the feet of the Premier and the Government for failing to show the leadership, resolve and determination to make it work. The amendment relating to corporate governance destroys the potential for all stakeholders to play a role in the development of the scheme. It also, alarmingly, shuts down an opportunity for external scrutiny of the scheme, electing instead to return to the bad old days of excessive bureaucracy. Coupled with these concerns of secrecy are the changes to the reporting powers of the ratings bureau that will further reduce the opportunity for stakeholder scrutiny of the scheme.

In dissolving both the advisory council and the Occupational Health and Safety Council a new Workers Compensation Workplace Occupational Health and Safety Council will be put in place, as the overview of the bill says, "to provide advice to the Minister on occupational health and safety, workers compensation and injury management". Following the introduction of the bill in another place, Minister Kim Yeadon gave credit to the work of the advisory council in his second reading speech, but failed to tell the House that this bill euthanased the advisory council, an advisory council that had responsibility for providing legislative reforms to turn the scheme around, a scheme that was forecast to hit \$2 billion in debt by last December but now, the Minister for Industrial Relations tells us, has improved to the sum of \$400 million. If this is the case, why dissolve the council?

Is it because the council, in its current form, poses a threat to the Minister's control of the scheme, the likelihood that somebody might speak out and tell the truth, or is there somehow a legitimate reason for its dissolution? Honourable members should not be misled into believing this new combined advisory council is

nothing more than an amalgamation to focus the council on both aspects of workplace safety. The previous advisory council had a real role. This new model is nothing more than a focus group. In addition, all employee representatives on the advisory council in this new model would have to be nominated by the Labor Council of New South Wales, despite the fact that the Labor Council does not represent the majority of New South Wales employees.

In fact, 75 per cent of the employees of this State are not covered by those faceless voices of the Labor Council. How can their contribution on the amalgamated form that the legislation proposes be in any way representative of the workers of New South Wales? I can see by the look on your face, Mr Deputy-President, that you agree with me wholeheartedly. One need only consider the words of Richard Grellman in the November 1997 report in the *Australian Safety News*, when he said:

The Advisory Council is a separate entity from WorkCover. It is recommended that a strong relationship between the Advisory Council and WorkCover is established to ensure that WorkCover aligns its activities with the objective of the system, promulgated by the advice to council.

It is the objective of the Opposition to oppose this amendment at the Committee stage. If the Premier can proudly announce over the weekend a \$10 billion plan built on a partnership with business, why cannot the people of New South Wales have a workers compensation scheme built on the very same relationship? In the October 2000 briefing given to the crossbenchers on the proposed reforms to the workers compensation scheme, corporate governance was listed as the number one priority under the heading "Scheme Efficiency". The briefing paper details the amalgamation as forming a new, high level safety and workers compensation consultative body.

There is nothing consultative about the role of this new body. Nothing in these amendments will prevent the views of the new advisory council simply being ignored. This is nothing more than throwing out the baby with the bathwater. Is it any wonder that honourable members and those in the community who are interested in reforms doubt, firstly, claims by the Government that it has a plan to reform the system when there is not one mention of movement towards a privately underwritten scheme in that briefing, and, secondly, the integrity of the Government and the Minister in the way they have refused to confirm their intentions to introduce a debt-reduction levy?

The failure of the Government and the Minister to identify in even the most remote fashion their intentions towards this levy in the briefing paper, and the underhanded way amendments in the legislation will give WorkCover the green light to introduce the levy whenever it sees fit, most certainly are conducive to a suggestion that both the Government and the Minister do not want any scrutiny of the reforms they are proposing. The Minister can hardly say that the briefing merely identifies amendments in the first tranche of reforms, because issues identified in the briefing are not in the legislation. It is therefore reasonable to suggest that this is the Minister's entire blueprint for reform of the workers compensation system.

Regulation of fees was identified in the briefing paper to the crossbench, but there is no mention of it in the bill. The same applies to commutations and advertising by lawyers. Again, they were both mentioned in the briefing paper, but not in the legislation. I assert that what we have before us, the briefing paper, is the entire blueprint for reform of the workers compensation scheme with no mention of the privately underwritten potential of the scheme. The next priority for government, according to the October briefing, is injury management, with both the introduction of pilot projects and market incentives. It is our belief that many employers will be prepared to participate in such a scheme, provided they can see light at the end of the tunnel in regard to their premiums. But they will also wish to maintain some control of the outcomes.

One of the biggest concerns facing employers around the State is despondency about their inability to participate in either measure to reduce their premiums or how a matter is investigated and resolved. It is hoped that any incentive-based scheme would provide some respite for those who promote a safe workplace, yet see no reward for doing so at this stage. However, I am interested to hear how a system that is currently controlled by the Government, which receives a yearly income but fails to meet the cost of running the scheme, can afford to create an incentive scheme that will reduce the premiums of good employers. If the Minister reduces premiums at one end, surely he intends to add somewhere else in the scheme.

From where exactly does the Minister expect this money to be recruited? Or are we all going to be reassured that forcing down the cost, as the Minister forcefully claimed the legislation will do, can bring about cost savings? On the subject of the area designated for the pilot project, Bathurst-Orange, will the Minister table a copy of the 1990 study conducted, I am told, along a very similar vein as this, in the same area? It would

appear the Parliamentary Library does not have a copy, and perhaps this may be of assistance to members in evaluating the worth of projects in the future.

As I alluded to earlier, many employers would be prepared to participate in such a scheme, provided they maintain some element of control. An examination of the legislation failed to identify the process by which employers can withdraw if they are unhappy with the scheme. The Opposition will move to address this anomaly at the Committee stage. Further, all of us are aware of the Minister's disdain of sunset clauses. However, the Opposition believes this is the very scheme under which such a clause should exist. It is also imperative that a pilot project should be afforded some level of scrutiny to evaluate their success or otherwise. It is our intention to refer these pilot projects, upon expiration of the sunset clause, to the Standing Committee on Law and Justice of this Parliament for evaluation.

The sunset clause should be of a reasonable period to allow the scheme every opportunity for success and avoid political exploitation. Therefore it should not be before the next State election in 2003. Our proposal is to expand the sunset clause to allow for a review. The reference to the Standing Committee on Law and Justice is not an automatic assertion by me that this is the rightful body to examine matters relating to workers compensation. All honourable members are aware of my views about which committee is best placed to consider such issues.

I anticipate that a select committee on workers compensation, yet to be finalised in this Chamber, would have concluded its work by the time this sunset clause is reached. It is extremely important that those with the greatest understanding of the scheme, the stakeholders, have a real function in the roll out, as opposed to the roll back of the pilot projects. The Opposition supports the need for the WorkCover Authority to seek the consent of the advisory council, in whatever manifestation we are left with after today, in the granting of premium discounts. It is a fairly straightforward proposition and I will move that way during the Committee stage.

A further Opposition concern relates to the suitability criteria for persons to be selected as injury managers. Again, as there is nothing in the proposed legislation to clarify this issue, I will move in the Committee stage that injury managers must not be someone who, within 12 months prior to their appointment, was an employee or organiser of a registered industrial organisation. The Opposition believes this further amendment will merely reduce the potential for any perceived conflict of interest and will work towards reducing possible conflict for the success of this scheme.

Finally, with respect to the pilot projects, the Opposition is concerned also about protecting the privacy of all employers and employees who participate in the scheme. There is nothing in this bill that prevents the publication of information that could identify persons involved in the scheme without their permission. During the Committee stages I will move an amendment that we believe will rectify that situation and add further to the integrity of this project. Schedule 4 to the bill relates to common law elections. I remind the Minister that on 12 October I asked if his legislation would prevent a common law claim being filed if a claim had also been filed in the Compensation Court, removing the safeguard that the current election system provides. When asked to guarantee that he would not take action to restrict common law claims his response was, "There are a number of things I am not prepared to guarantee at this time."

The Minister has done or said nothing that will indicate his commitment to protecting common law rights and this legislation equally casts doubt over this Government's position on this issue. The Opposition is sure this is just an oversight and to address this anomaly will move in Committee an amendment that there be no restriction on right of common law claims without the approval of the Advisory Council. Schedule 7 to the bill relates to medical reports, in particular the admissibility of medical reports pursuant to limiting the number of reports allowable at law. All honourable members no doubt would be concerned about the financial impact medical costs have on the system; equally there would be alarm over the potential to deny people the right to justice in the manner this Government has taken with this overtly simplistic approach to the admissibility of evidence.

To somehow suggest that plucking a magic number from the sky, indicating the maximum number of medical reports allowable, will free up the court system and save millions on the system is ludicrous to say the least. The Opposition is aware of concerns that the system is being manipulated to either draw out a matter or to shop around until you get the right result, the doctor you want. However, does that not indicate that the system needs fixing, not this arbitrary numbers game we have before us? Again I make the point, if this Government is serious about returning to the pre Grellman era, it should consider the findings of the Heads of Workers



Compensation Authorities [HWCA] in its report to the Labour Ministers Council on Promoting Excellence: National Consistency in Australian Workers Compensation of May 1996.

The HWCA recognised that cost containment should not be an end in itself. The primary objective in workers compensation is to achieve stability in the medical condition and facilitate as soon as practicable a return to safe work. The Minister's only answer on the question of the medical drivers upon the system is to introduce a limit on how much advice someone can have. No doubt more work can be done to establish protocols and guidelines that can achieve some semblance of limiting the opportunity for the system to be manipulated, but recognising that each case differs and what is a level of acceptability in one case may not be fair in another. The Australian Society of Orthopaedic Surgeons in a submission concerning this legislation made the following important observation:

At present any medical practitioner can report on any medical condition. Whilst the ASOS is reluctant to advocate a narrowing of the courts' access to medical opinion, the relevant expertise of the report writer in the area under consideration should be a factor in the admission of a report into evidence.

The Government has not addressed this issue in any way. Again I make the point that if this Government were serious about improving all aspects of the scheme it could do no better than return to the Grellman inquiry. The Opposition has, and believes there still remains, an opportunity for reform with greater use of medical panels. If the issue is one of medically disputed evidence alone, surely there must be better options than what the Government has served up today. We hear time and again about them wanting to force some of the legal costs out of the system. Where is there any evidence in the legislation and in the proposition put by the Government that medical and legal costs have the biggest impact upon the system?

To find out exactly what is impacting upon the workers compensation system there can be no better way than through a parliamentary inquiry by a select committee to get to the root cause of many of the difficulties being experienced in workers compensation. However, that debate is of course for another day. The Opposition believes that the Government has a commitment to reform the scheme and this schedule merely tinkers with the edges. If the Government were serious about its three stages of reform, our view is that the schedule should be omitted from the bill and brought back in a form that can achieve some control over the problems we have identified but which are rectified in such a way to prevent isolated workers falling between the cracks that are already starting to appear.

Schedule 8 to the bill relates to information exchange before conciliation. As in the previous schedule, the Opposition is concerned about procedural fairness, in particular the potential for the exchange information process to be used merely as a fishing expedition against either side that could possibly lead to matters being changed from conciliation to a full hearing. To safeguard against this, I propose a provision enabling a party, subject to the information exchange requirements, to lodge an objection with the principal conciliator on the ground of relevance. The principal conciliator would then make the determination regarding that information and these provisions would not exist when the claim is disputed as fraudulent. There is nothing in the bill that details any limitations on what can be sought through the application of schedule 8. The Opposition believes its amendments to be fair and reasonable. A number of the remaining schedules deal primarily with penalties. What we have seen in recent years by this Government is a growing reliance upon revenues raised through the imposition of new fines or by increasing existing ones.

Schedule 10 relates to the recovery of funds from directors of uninsured corporations. No doubt this issue of protecting workers when the company liquidates is of great concern to all members of this Chamber. There is little sympathy for employers or directors who do not do the right thing by their staff. However, whilst quite often taking strong action against someone who has divested themselves of any assets may allow the Government to feel good, it rarely translates to any benefit to affected employees. We need only look to this Government's continued stubbornness on the issue of workers entitlements to see how victims invariably end up being the most vulnerable. As in the case of workers entitlements, the Government does not appear to have any solid plans for widespread reform of the workers compensation system. Instead of trying to turn around the system with a long-term goal of where the system should be in 12 months, two years or longer, the Government reverts to its old familiar ground of creating legislation that enables it to go back to its union mates and say, "Look, we're getting stuck into the people for doing the wrong thing."

Sections 175 and 175A rightfully address the issue of employers and directors who evade paying the correct premium. The key to these provisions is the intent of the employer and/or director at the time. Innovation in this case is, therefore, a wilful act. However, the explanatory notes for both sections refers to the recovery from an employer/director of double the amount of insurance premiums where the employer/director provided

false or misleading information to be used in calculating the premium. Again I stress that where it is a wilful act to deceive there should be little sympathy. However, where the employer/director provides information that is later proved to be false and where the employer/director is not shown to have been wilful in the provision of that information, there is room for a distinction in terms of the penalties set out in the sections.

The Opposition proposes that an amendment be made that where the total premium is less than \$50,000 per annum the employer/director is not liable to any penalty on the amount paid in excess of 10 per cent of that amount unless the authority establishes an intent to deceive. This amendment is primarily designed as a safeguard for the many small business operators who are working long hours struggling to keep the doors open who may be prone from time to time to the odd mistake. Fines which double premiums may be the difference between keeping the doors open or closed, and the subsequent effects on employment and the economy could be quite devastating. The Opposition amendment in no way attempts to protect employers/directors from fulfilling their obligations with regard to workers compensation.

Schedule 14 to the bill relates to fraud against the workers compensation scheme. Members will recall that recently the Minister for Industrial Relations was asked a question regarding fraud upon the system and we were told that from July 1999 to October this year only 12 fraud prosecutions were recommended, three did not proceed and only one resulted in a penalty of imprisonment. Yet no matter where I go around this State I am inundated with allegations of fraud claims made upon the system not only by employers but indeed by employees. Having spoken to quite a number on both sides of the ledger, employees and employers, I have noted a lack of confidence that anything will be done should people report evidence or their belief of a fraud being committed on the system. They do not see the use of complaining, because nothing is ever done. The insurance industry, which is simply managing the Government's scheme, is not prone to divesting large sums of money to pursue many of the allegations. This is adding to the confusion and disillusionment by employers. When they believe one of their employees is doing the wrong thing they report it to the insurance company or to WorkCover and nothing ever seems to be done. This is a huge problem, whether it be fact or urban myth, that needs to be explored beyond the realms of this debate.

It is one of the issues I would have liked to be a core priority for a parliamentary inquiry into workers compensation, so that we can put to bed once and for all the extent of fraud. Employers and employees would then know what is occurring in the legislative approach to the problem and from the insurers' side of the ledger to ensure that matters are being followed up. There is widespread confusion in the community and the Government is not moving to identify and clarify these issues. As I mentioned earlier in this debate and in earlier debates on the workers compensation system, we continually hear from the Government that it is cracking down on fraud upon the system. However, everything seems to be skewed towards compliance by employers. There is very little on the other side of the ledger.

Minister, your friends down at the Labor Council might not like you moving towards compliance by employees as well, but we on this side of the Chamber still believe in the value of a partnership in workers compensation. If you are going to get serious about employers then you need to balance the other side of the ledger. There should be a Government-led push to bring about a cultural change towards workers compensation. Unfortunately, for many it has become the lottery that you enter the moment you walk across the threshold into the work force. You do not need to buy a ticket; you are given one for free. And guess what? Everyone is a winner.

Touching on the earlier matter of advertising by lawyers, is it any wonder that individuals in the community see the system as being open for abuse when the tenor of broadcast commercials invites acclaim. I will not recount all the advertisements that I have heard. I am sure all members in this Chamber have heard such advertisements as they drive around this great State. Time and again the legal fraternity invites claims. It calls upon people to come forward, stating that they will not have to pay. That is the tenor of the advertising. In my view there is absolutely no difference between someone making a fraudulent claim for a back injury and someone stealing \$100 from the till. The intent is the same: it is a criminal intent. People do it with the intention of taking money from their employer. To bring about cultural change the Minister needs to get serious in determining the level at which these matters will be determined.

Schedule 14 provides for a criminal sanction with a criminal onus of proof, but still the conviction is to be dealt with under the Workers Compensation Act. The Opposition believes that for consistency the penalty for fraud under schedule 14 should not, in serious cases, prevent proceedings being taken under the Crimes Act. The wording of section 235A of the Workers Compensation Act is consistent with section 178BA of the Crimes Act, "obtain benefit by deception", which carries in a Superior Court a maximum penalty of five years

imprisonment. It sends a much stronger message to the community to say that if people are caught in a criminal act under the workers compensation system they will be dealt with as a criminal under the Crimes Act and will receive the full impact of the Crimes Act for the action that they have undertaken. In Committee I will move to rectify the inconsistency.

Schedule 17 relates to insurer penalties. Consistent with the approach taken by the Opposition in attempting to address deficiencies in schedule 10, we have identified an issue of fairness with respect to the schedule. We also intend to rectify it in Committee. In the imposition of civil penalty on or censure of licensed insurer or self-insurer provisions of the bill, there is no process by which either an insurer or a self-insurer has the right to appeal the finding of the authority as spelt out in section 183A. The matter of proper process can be easily rectified by allowing the insurer a right of appeal to the Administrative Decisions Tribunal.

I will conclude my comments on the bill at this stage. However, I must again stress the importance of getting these reforms right from the outset. Clearly, the Opposition is opposed to some aspects of this bill on the grounds that they are nothing more than policy on the run and doubt remains as to their short-term or long-term effectiveness in bringing the scheme under control. With respect to the changes spelt out earlier regarding schedule 17, I will also move amendments in Committee. Dissolving the responsibility and role of the current advisory council is a retrograde step at this stage. Labor has been in power since 1995 and things have only continued to deteriorate. Did it really expect the advisory council to turn things around in just over two years? If we are unsuccessful in convincing members of the need to retain the advisory council at this time I will move in Committee to amend the membership of the new amalgamated council to ensure its membership is consistent with the work force of this State and those involved in the scheme.

*[The Deputy-President (The Hon. J. R. Johnson) left the chair at 6.31 p.m. The House resumed at 8.15 p.m.]*

**The Hon. I. M. MACDONALD** (Parliamentary Secretary) [8.15 p.m.]: I support the Workers Compensation Legislation Amendment Bill, which contains important amendments that are designed to enhance the efficiency of the dispute resolution system. For the benefit of honourable members, I preface my contribution by outlining the process by which this bill has come before the House. Although it has been a long process, it has involved all stakeholders in workers compensation in this State. Honourable members who are interested in this issue may recall that on 8 June the Minister for Industrial Relations provided the House with a detailed guide to the workers compensation legislation that the Government would be introducing later in the year. In his ministerial statement on that day, the Minister announced 10 basic principles upon which the Government would consider the changes that it envisaged making to workers compensation.

I remind honourable members that this bill is based upon those 10 principles that were enunciated in this House nearly six months ago and that those principles have been before honourable members during that time. Not only were those principles enunciated in June, but a number of questions were asked of the Minister and statements made by him that relate to the proposed changes to the WorkCover scheme. I will not deal with the ministerial statement in great detail at this point, but I will give honourable members an idea of the direction as outlined by the Minister. Principle one was that attention will be given to the identification of further measures to increase the focus on injury management and early return to work. Honourable members will find that focus upon injury management in the bill. The Minister said that WorkCover would establish two pilot schemes, one regionally based and one industry-based, to develop the world's best injury management and return to work practices. That was the first principle upon which this legislation was based, and this legislation contains such a principle.

The second principle was to review the dispute resolution processes and structures and to develop better dispute prevention measures. Again that principle is contained within the amendments. The third principle was the development and implementation of medical treatment protocols. Again the bill is heading in that direction. Further, in relation to occupational health and safety, there was discussion as to how we can integrate WorkCover and the occupational health and safety aspects of legislation in this State. With a combination of the occupational health and safety advisory committee and WorkCover, we are heading in the direction of greater co-ordination between the elements of WorkCover. The fifth principle was the development of a strategy to provide accurate and timely information to scheme participants to meet their needs and enable them to fulfil their obligations.

The sixth principle was to control professional fees and ensure that the workers compensation scheme and its participants get best value for money. Again, this legislation incorporates those principles. The seventh principle was for a mechanism to be developed for the gradual removal of existing cross-subsidies. The Minister

also referred to a number of measures, which I will not relate now, and some further principles. The tenth principle was a strategy to target employer compliance. Again this bill heads in that direction. I point out that as early as 8 June the basic principles upon which this WorkCover amendment bill is based were enunciated in this House to members and for the interest of members.

However, that is not the only thing that the Minister has done in the past six months. I have a number of answers to questions in which the Minister outlined in more detail the proposals on specific points of the 10 basic principles. It is quite clear that the Minister was preparing the House for the changes that are before us today. Two weeks ago the bill was tabled. All honourable members have had two weeks to consider it, which is a reasonable period to consider most bills. It is a large and comprehensive bill, but it is not the end product of the consideration and review of WorkCover. Rather, it is the start of a legislative change to try to meet the twin needs of reigning in the cost of WorkCover while, at the same time, preserving the real benefits for workers who are genuinely injured at work.

The bill was clearly enunciated, and honourable members have been given two weeks to consider it. The Opposition proposes to move 18 amendments to the legislation at the Committee stage. In due course we will look at each and every one of those amendments. This bill is the culmination of an extensive program conducted over the past six to eight months. Mr Richard Grellman, whom I know quite well, participated in the program and was of great assistance to the Government. Although in the past the Leader of the Opposition has not been full of praise for Mr Grellman, I draw the attention of honourable members to his change of heart, evidenced this evening by his quoting extensively from Mr Grellman.

The principles of the legislation, which were outlined on 8 June and with which the legislation is in accord, will be the basis of further legislation and further legislative initiatives early in the new year. The Opposition has done its job and consulted the stakeholders, whom it believes should have a role to play. I hope that honourable members are able to debate the legislation so that we can get the first tranche of reform to workers compensation off the agenda. The current legislation provides a two-tiered approach to resolving disputes. Once it is apparent that a dispute has arisen, the parties must proceed to conciliation where the options for settlement are explored.

If the matter cannot be resolved at conciliation, it is then referred to the court for determination. Conciliation is important because it provides an opportunity for parties to resolve the dispute without the need for an imposed decision through costly and time-consuming litigation. However, it relies upon the parties to the dispute being ready, willing and able to participate. New South Wales has around the highest level of disputes arising out of workers compensation claims of any jurisdiction in this country, and that is something we have to tackle.

Each year about 30,000 dispute results not only in unnecessary legal costs, but also delays for injured workers in obtaining their entitlements. Of the 30,000 disputes, approximately 85 per cent result in payments to the injured worker or workers. However, about only 20 per cent of matters are actually resolved early in the dispute resolution process at conciliation. The low rate of resolution leaves workers dependent on the workers compensation system for far too long. That limits the workers' ability to take positive steps to return to work and to get on with their lives. Those injured at work have a right to compensation.

What is just as important, and what is often overlooked, is that workers have a right to get that compensation as early as possible. I have observed that in many cases it can take up to six or seven years for that compensation to be received. The New South Wales Government recognised, when it created the Workers Compensation Resolution Service, that there would need to be a change in culture among participants for conciliation to reach its potential. Although some participants have embraced conciliation, others have not moved from the adversarial approach, which relies on costly and time-consuming litigation.

Conciliation relies on the participation of the parties, including the sharing of relevant documents. It is hoped that better-informed participants will result in parties being more willing to settle. The evidence shows that most disputes settle during court hearings without proceeding to judgment. I am advised that this is likely to be because parties become aware of the other party's case. Exchange of information during reconciliation aims to create a similar environment. This will ensure that workers get their money at an earlier point in the process. Schedule 8 to the bill provides that when referring a matter for conciliation the parties will need to identify the documents on which they propose to rely and other documents in their position that are relevant to the dispute.

Schedule 8 provides that when referring a matter for conciliation the parties will need to identify the documents on which they propose to rely and other documents in their possession that are relevant to the dispute. The schedule provides also that before a conciliation conference is held the parties must produce to the other party the documents on which they propose to rely. If the material is not produced, it cannot be relied upon in conciliation. These proposals will result in less cost, less delay and less inconvenience and should increase the number of disputes resolved at conciliation if parties demonstrate necessary commitment. It should be pointed out that the provisions require the production only of information the parties had in their possession at that time. Material obtained after conciliation still can be used in court.

While it is recognised that some parties may seek to delay obtaining information until after conciliation, the existing provisions of the legislation allow cost sanctions to be imposed on those parties that do not make a genuine attempt to participate in conciliation. The Bar Association has raised concerns relating to the effect of the provisions on privileged information. The disclosure of documents subject to legal professional privilege at conciliation has not been an issue in conciliation to date. However, instances do occur when participants seek to withhold documents simply because they do not want to make them available at that time. Such documents are not always subject to privilege and some of this information can be accessed already through subpoenas or the discovery process when the matter proceeds to court.

To support the withholding of information from conciliation is to promote the proposition that matters must be resolved at the Compensation Court after a lengthy delay rather than quickly through conciliation. If evidence available to either side is so compelling, it should be introduced as soon as possible so as to resolve the dispute at the earliest opportunity. It is not the intent of the provisions to require communications between solicitor and the client to be produced. It is highly unlikely that these documents would constitute evidence on which the parties would want to rely. Such documents will probably fall outside the scope of the provisions. However, under the proposed arrangements participants will be required to identify evidence upon which they intend to rely. In doing so they will be able to identify relevant documents as being subject to privilege although they must produce that material if the parties want to rely on it in court to support the case.

Claims for privilege in relation to documents which the parties do not want to rely upon can be considered if a conciliator or court wishes to order production. It has been suggested that a more general power should be conferred on the conciliator to consider objections by parties relating to the production of documents. It is difficult to see why information that will ultimately be produced in court should not be produced in conciliation. This suggested change simply reinforces the view that matters can be resolved only in court. This prevents injured workers from getting access to compensation in a timely manner. The Law Society also has suggested that these provisions will discourage people from obtaining legal representation. Clearly, the current legislation, which protects injured workers from paying costs in nearly all cases, will ensure that workers continue to be legally represented.

Schedule 7 deals with medical reports. The intent of this proposal is to reduce the number of unnecessary reports obtained in disputed claims. The Law Society has suggested that this provision is unnecessary because of existing provisions in the Act. This is not correct as the existing regulation-making powers in the Act are limited. The Law Society has recognised also that one report is often not enough. While a final regulation is still subject to consultation with the stakeholders, it is proposed that the motor accidents approach be used when the parties are generally entitled to one report for specialty to support their claim. In some cases a further report can be obtained. It is proposed to give effect to this amendment by regulation to allow close consultation with scheme participants. The proposal is not intended to limit the treatment provided to an injured worker, and this will be given close attention when the regulation is being drafted. Consideration will be given also to circumstances where updated reports are required, for example, when the condition deteriorates or there is significant delay between conciliation and court proceedings.

The objective of schedule 9 is to reduce unnecessary legal costs in claims involving multiple managed fund insurers. Most insurers under the current scheme are licensed to manage statutory funds and together they can be regarded as part of the overall WorkCover scheme fund. Separate representation for each insurer is inappropriate when the claim arises from a single worker. Therefore, the bill provides for the insurers to have one representative. In a recent workers compensation matter heard by the New South Wales Court of Appeal 10 insurers were separately represented. The amount in dispute was approximately \$20,000. Not surprisingly, one of the appeal judges said the matter "reflects a disgraceful statement of affairs". WorkCover will closely monitor the operation of these new arrangements in consultation with insurers, and procedures will be adjusted if necessary.

The Minister in his second reading speech indicated that this is the first in a series of reforms to be introduced during the next 12 months. This bill contains modest reforms designed to improve existing

provisions of the legislation. Clearly, substantial reform in particular areas is needed. This initial bill represents a first step to a more sustainable but fair workers compensation system. In conclusion, this WorkCover program clearly follows and outlines the Minister's statement of 8 June and the tabling of this bill two weeks ago, which gave all honourable members ample opportunity to see the intent and desire of the Government in relation to improving on a fair basis the workers compensation legislation regime of this State.

**The Hon. M. I. JONES** [8.37 p.m.]: The Government requested a delay in the overall debate on workers compensation until it had an opportunity to prepare its first tranche of legislation. I suppose it has arrived, and what we have is superficial legislation which does not in any way attempt to get to the main issues that have caused so much trouble within the system. Apart from the Grellman report, which was published on 15 September 1997, to which I shall refer shortly, the first thing we must consider is this totally unmanageable tail on the problem, which grew from \$450 million in 1997 to \$1.6 billion today. This huge blow-out of well over \$1 billion in three years must be tackled. The reason for the blow-out is poor forecasting of premiums as a result of common law costs inherent in the workers compensation system and not on the predictable costs of permanent impairment suffering. In addition, the legal bills contained within compensation costs in New South Wales are quite extraordinary. The table shown to crossbenchers this morning states that legal costs in New South Wales represent 11 per cent of all claims. That is nearly twice the rate of other States, which is extraordinary.

In the last annual report of WorkCover it said that common law claims plus legal expenses constituted 25 per cent of all claims. Once again, these costs are extraordinary compare with those of other States. There is little knowledge of workers compensation out in society. Ordinary people do not know what their workers compensation benefit would be if they were incapacitated through an accident at work or industrial sickness. They may know what it would be in the first or second month but they do not know what the benefit would be in the long term. This situation should be addressed, and I will come to the reasons.

Built into the present workers compensation scheme is an option to elect for a judgment at common law. Herein lies the rub. I am not suggesting that we should reduce workers' benefits under workers compensation in any way. I am not stupid enough to think that a Labor government would in any way shortchange the trade union movement. It is not that at all; it is just that an election for a common law judgment involves unknown benefits which may be handed down in the future, whereas a specifically defined benefit can be accurately calculated by actuaries. Therefore the funding of the scheme can be put on track so that we can get this dreadful issue under control. Because of the savings made in common law we can increase the benefits and the certainty to the worker. I ask people to consider the problem of \$450 million blowing out to \$1.6 billion within three years. In a business sense this is an absolute scandal, an outrage. Things have to change drastically. The scheme needs major surgery. I am taking this opportunity in response to this first tranche to put it on the Government to attempt this major surgery.

I have gone over the Grellman report. It was prepared only three years ago. The bill demonstrates a lacklustre approach. I am prepared to support it but it is tokenism. It appears that the Government has not taken the report seriously or tackled any of the issues. Furthermore, I do not think that the report goes far enough. What is a defined benefit? Naturally, coalminers have a far greater incidence of claims than people in sedentary occupations, so a lot of calculations have to be done. For argument's sake, people may be insured for 100 per cent of their declared income as a workers compensation benefit for, say, 12 months. After 12 months the compensation would be 75 or 80 per cent of the defined benefit plus inflation. That could go on until the worker reaches a specific age, decreasing after the first year to discourage malingering. If people have been off work for a long time they are not out at restaurants and going on holidays and doing all the expensive things in life; they are on compensation. The benefit would then continue until retirement age, whatever it is. This could be negotiated with unions.

If people then want to opt for a lump sum payout, that payout can, once again, be predetermined by a formula, similar to superannuation or a pension. A capital value can be put on a pension at any point in time. The payouts then stay out of the highly litigious areas where the legal people get involved. They can be almost predetermined if the insurer realises that the person is permanently impaired and if the insured ceases to take a lump sum payment as opposed to receiving an ongoing income. Against this are the arguments that the injured person would be disadvantaged if he or she was, say, in his or her sixties and were to lose a limb and sought compensation under what is called the table of maims. The table enables a person to claim under common law a lump sum for the loss of use of a limb, whereas this could be predetermined based upon a factor of income, what the person is earning, the length of time the person is likely to earn that income and a special consideration according to the person's declared salary. The formula would come up with a lump sum payment which the person could then seek. The insurance companies could also accurately prescribe a premium for the employers to pay.

When a person who has a long-term impairment, undertakes rehabilitation and gets back into the work force, albeit at a reduced rate of income, the workers compensation payment could continue to subsidise the reduced income to build it up to a more reasonable level, rather than the injured person having to be concerned about loss of benefits and behave in a way which has already been described by the Leader of the Opposition as a criminal act. One of the problems facing the workers compensation scheme is employers falsifying the number of employees, the payroll or the job descriptions of the insured, thereby avoiding the very high premiums being charged by workers compensation insurers. One way of circumventing these problems is to require employers to produce—I suggest it could be at the time of producing a group certificate for workers—a statement showing the person's declared salary. The certificate is produced by the insurance company to the worker. This would demonstrate accountability. This is not an unreasonable request. It already happens with group certificates and superannuation guarantee charges. They are produced to the employee at the end of every financial year. Similarly, a workers compensation certificate could be produced. It could be paid for out of the savings made from employers paying the appropriate amount premiums. The Grellman report highlights weaknesses in the system. I shall spend a moment on this. I refer to what the report says about the lack of legal and financial accountability, and controls of the statutory fund.

Once again, the matter could be addressed by a more carefully forecasted premium that would make defined benefits the order of the day. The second weakness in the system refers to a lack of incentive for licensed insurers to research and implement best practice injury management processes; third, heavy regulation of licensed insurers leading to less than optimal injury management; fourth, conflicting roles of WorkCover, preventing it from properly carrying out its role; fifth, deficiencies in the premium system; sixth, a flawed benefit structure; and, seventh, complex and disjointed legislation.

This bill is merely a list of peripheral issues that the Government is attempting to now address. The reason for the Government not bringing complete legislation before the House so that we can discuss it in one hit is best answered by the Government. I wonder whether it is testing the waters and seeking the Opposition's response to the first draft. Perhaps the Government feels that this matter has not been addressed and this bill is a stopgap measure to prevent criticism. It is sad that we cannot have more meat with our potatoes and discuss matters in far more substance. A number of amendments have been foreshadowed and the suggestions I have made in my brief speech are totally contradicted by the proposals of the Opposition.

I will support the legislation but suggest that we have a long way to go. There are many issues that must be addressed with a will. This system is failing, and failing big time at the moment, not so much in the benefits it is producing but in the uncertainty of cost to employers. It is also failing employees who suffer injury at work, knowing that if they are to obtain a suitable payout there will be court cases, legislation and solicitors. These are the last things sick or injured persons want to countenance. It would be far simpler if the benefit were defined so that workers know their entitlements and can progress along those lines without worrying about court actions. However, there must be the will to do that. I seriously challenge the Government to have the will to do the necessary surgery to the scheme, to bring the tail under control, but not necessarily at the cost of benefits to the workers and certainly not at the cost of ongoing increments to employers. It takes will and determination. I would like to say that I look forward to the next tranche of legislation but somehow I do not think it will be as decisive as it needs to be. However, we will wait and see.

**The Hon. R. D. DYER** [8.53 p.m.]: I support the Workers Compensation Legislation Amendment Bill. I wish to confine my remarks to a very important and—with reference to something the Hon. M. I. Jones said—not peripheral aspect of the bill, that is, prompt and appropriate treatment of injured workers. The 1998 Workplace Injury Management and Workers Compensation Act introduced new injury management obligations on employers and insurers. This included improved notification requirements, obligations to develop injury management plans and programs, and improved claim management procedures. The 1998 Act also provided for payments to be made on claims before a formal decision on liability has been made. These provisions were intended to provide a head start to providing medical treatment and injury management.

The 1998 reforms essentially tackle the fundamental problem of the scheme, which was poor return to work following injury, and commenced a process of a changing behaviour by all parties in the scheme—workers, employers, medical and rehabilitation practitioners, and insurers. By starting the process of behaviour change, the reforms generated savings for the scheme. They also demonstrated the value of focusing on recovery and return to work. The improving financial position of the scheme is evidence that the required changes have begun. However, it is also clear that there have been some limitations on implementation that have caused these initiatives to stall and their full potential has never been realised. It is now clear that more must be done to build on the early gains by the previous reforms to the scheme. This bill achieves that by providing a

stronger focus on improved injury management processes. These processes are designed to ensure that injured workers receive medical and rehabilitation attention promptly, and are encouraged and assisted to return to work as soon as is safely possible.

In particular, the bill facilitates the recently announced injury management pilot projects. The objective of these pilots is to seek to identify best practice approaches to injury management. The bill allows the authority to appoint the successful tenderers for the pilot projects as the injury managers for employers participating in the pilot. The injury manager appointed under these pilots will be authorised to act in place of the insurer for certain injury and claim management decisions. This could include the claims management functions currently performed by the insurer, such as making an early decision on liability or developing an injury management plan for an injured worker. It may also include authorising payments for health care and possibly weekly benefits so that injured workers get their compensation in a timely manner.

It is now well established that prompt and appropriate treatment provides the necessary focus for recovery to be achieved wherever possible. This focus enables workers and employers to work together to achieve a timely return to work. This provides a win-win situation for both workers and employers. Workers obtain the services and support they need to recover and return to work, and employers are not burdened by staff absence and other costs associated with workplace injury. These pilots will help identify best practice approaches to claims and injury management that can be adopted across New South Wales. They will also identify impediments that currently block the achievement of scheme outcomes.

I am aware that a number of amendments have been circulated which would involve significant changes to the proposed injury management pilots. It is the Government's view that these amendments will delay the commencement of the pilots. The tender process is at an advanced stage and is scheduled to commence on 1 January next. The Government has in place a strategy to identify best practice in relation to injury management. This has the potential to significantly reduce scheme costs. The amendments will prevent this from occurring. The Government is continuing to consult with the insurance industry on a range of matters, including their role in injury management. Clearly, insurers have obligations beyond the writing of insurance policies and the positive and appropriate injury management actions of insurers will be essential to the long-term success of injury management in returning workers to work.

A new remuneration package, which is being developed in consultation with the insurance industry, will provide the right incentives for insurers to have the necessary level of injury management capacity in place to achieve scheme objectives. The bill also contains penalties for insurers who simply do not behave the way the scheme requires them to behave if the scheme is to provide properly for injured workers. This is a balanced approach that has been adopted for all parties in the scheme. Incentives and rewards are provided for achieving well on scheme objectives, and penalties where failure leads to the undermining of scheme outcomes. As the success of the earlier reforms demonstrates, if all parties work together, focusing on the worker's recovery and a timely return to work, the scheme and its participants will all benefit. This bill represents the next step in the Government's reform of the workers compensation system. It demonstrates the Government's ongoing commitment to injury management and the provision of prompt and appropriate treatment for injured workers.

**The Hon. HELEN SHAM-HO** [9.00 p.m.]: I am pleased to speak to the Workers Compensation Legislation Amendment Bill and indicate my support for it. The object of the bill is to amend the Workers Compensation Act 1987, the Workplace Injury Management and Workers Compensation Act 1998 and the Workers Compensation (Dust Diseases) Act 1942. As I was the deputy chairperson of the Standing Committee on Law and Justice that inquired into workplace safety in 1998, I am familiar with the issue of workplace injury and death in New South Wales. That being so, I welcome the introduction of this bill. I know that the Law Society has expressed some concerns about the bill, for example, increasing WorkCover's power; downgrading the advisory council and the rating bureau's function of independence, in schedule 1; restricting the time available to workers to elect between pursuing statutory or common law remedies, in schedule 4; and limiting the numbers of medical reports admitted in conciliation or compensation court proceedings, in schedule 7. However, I believe that certain provisions of this bill will go some way towards promoting workplace safety and injury prevention and management in New South Wales.

The bill is long overdue. We all know, and have known for some time, that the current workers compensation scheme in this State is in crisis. New South Wales has the highest levels of dispute and legal costs of any workers compensation scheme in Australia. WorkCover had net debts of \$1.6 billion last year and \$2 billion as at 30 June this year. Actuaries have forecast that, without reform, the net debt will grow to between \$2.6 billion and \$3 billion by 2005. Given my work on the law and justice committee workplace safety inquiry,



I think it is appropriate that I focus my remarks on the impact that this bill will have on reducing workplace accidents. As honourable members are aware, the issue of workplace safety is important and topical. We spend most of our adult lives at work, yet for many people the workplace poses an unacceptable level of risk to their health and safety.

Each year workplace accidents involve more people and cost the State more money than road accidents. In the period 1997-98 there was a total of 58,604 employment-related injuries and 181 fatalities in New South Wales. In 1998-99 there were 55,492 industrial injuries, a decline of 5.3 per cent from the previous year. This decline must be attributed in part to the increased emphasis on injury prevention and management procedures. I am sure we are all familiar with WorkCover's recent publicity campaigns and television advertisements aimed at raising community awareness of workplace safety.

Workplace injuries cost the Australian economy \$15 billion. Needless to say there are also many indirect costs involved, such as higher levels of absenteeism, increased premiums, staff replacement and training, and loss of expert knowledge. These indirect costs are estimated at approximately four to 10 times more than the direct costs. Of course, there is the human cost involved which can never be measured in dollars and cents. I am particularly pleased that the bill seeks to introduce an incentive scheme for employers so as to improve their occupational health and safety and injury management performance, which was a major recommendation of the final report of the Standing Committee on Law and Justice into workplace safety.

Schedule 2 to the bill provides for a premium discount scheme which will provide market incentives for employers to improve their occupational health and safety and injury management performance. In return for a premium discount of up to 15 per cent, employers must implement certain occupational health and safety and injury management systems. I am sure honourable members will agree that it is much better for workplace injuries to be avoided in the first place—prevention is better than cure. Employers may act more responsibly if they know they are going to receive some reward for it.

I also note that the scheme is to be particularly targeted at small businesses in New South Wales. I support this provision because it is a well known fact that many small businesses can be wiped out in the event of a major claim. It is also worth noting that schedule 2 to the bill is consistent with the law and justice committee's workplace safety report, which recommended the introduction of mechanisms for using workers compensation premiums as an incentive to promote best practice in workplace safety. It is also consistent with the Grellman Inquiry into the New South Wales Workers Compensation Scheme, which recommended the identification of "incentives for those employers who actively promote and implement safe work practices to reduce workplace injury".

In addition, the McCallum report of 1983 recommended the development of greater links between workers compensation premiums and safety performance. In conclusion, it is vital that we reform the WorkCover scheme. Despite the fact that some concerns have been expressed, I believe that this bill has the potential to assist in the process of reform and to meet the challenge of reducing the level of workplace injury and death in New South Wales. The recommendation of the Standing Committee on Law and Justice was that a committee similar to the Staysafe committee should be established.

I was disappointed that the Minister was not prepared to even consider the benefit of such a Staysafe-type committee. I hope that future governments on both sides of the political fence will consider the establishment of such a committee, which was one recommendation strongly supported by the committee at the time. It would be similar to the Standing Committee on Road Safety. To my mind it is simply commonsense that we should have a parliamentary committee to oversee the safety of workers just as we have a committee to oversee road safety for road users and drivers. I commend the bill to the House.

**Ms LEE RHIANNON** [9.07 p.m.]: With some reservations, the Greens support the Workers Compensation Legislation Amendment Bill. One would have to say that about the only thing we have in common in this debate is that we agree that we have a major mess on our hands and something needs to be done about it. One of the unfortunate things about these debates is that as we go through detail we often lose sight of the fact that people's lives are involved and that they suffer hardship. We need to keep that to the forefront of our minds throughout this debate—people are injured, people die and we really need a system that works for them, for the community and for those who are left to pick up the pieces. Rehabilitation costs have dramatically increased. I understand that during the 1990s they increased from \$10 million to \$50 million and that has had no significant impact on the return to work rates.

That is what we are attempting to address here. We are attempting to ensure that we keep jobs ticking over, that people's lives are saved and that they do not have to live with terrible injuries for the rest of their lives.

We have a system that is effectively out of control. With a \$1.9 billion deficit obviously we have a major problem on our hands. The Greens are pleased to see this legislation before this House and to note that an attempt is being made to come to grips with the problem.

The Greens recognise that the Government is serious about dealing with the massive workers compensation liability. We are pleased that the Government views workers compensation as an efficiency, compliance and management issue. This stands in contrast to the Government's approach during the green slip legislation in which the order of the day was slashing benefits to injured people. However, there are several elements of the bill that deserve special mention. We strongly support the tightening of compliance by employers. In a speech I gave to the House on 9 July I spoke about the huge non-compliance in a range of industries, with special reference to the construction industry. It was clear that the Government needed to take strong action that reflected the seriousness of the situation.

Accordingly, the Greens support personal liability for directors of companies in regard to unpaid premiums, certificates of currency and the offence of overservicing. This is a good start and I commend the Government for taking those steps. The Greens believe that schedule 3, in relation to the claims procedure, is also a positive step. However, we are concerned about the huge number of matters that will be dealt with via regulations. As a general principle, we believe that the intention of the Government should be clearly defined in the bill. The Government should ensure that the development of regulations is undertaken in a consultative and co-operative manner, and that is the main point that I will address in my speech.

Schedule 1 deals with the Advisory Council and seeks to increase the power of WorkCover by downgrading the influence of that council. The bill seeks to merge the Advisory Council with the Occupational Health and Safety Committee. Concerns have been expressed that the merger will lead to a reduced focus on occupational health and safety issues and accident prevention. The Greens are concerned about the reduction in the powers of the council, especially in regard to policy formulation and consultation with all parties. Under the proposed changes, WorkCover will no longer be required to provide data and support to the new council. The Greens are concerned that if the new body does not have support from WorkCover its operations may be compromised.

The Greens also view the fact that the new body will not have the power to monitor or review the operation of WorkCover as a negative step. In considering our position on this issue we referred to the Grellman inquiry. We congratulate the former Minister for Industrial Relations, Mr Jeff Shaw, who put so much energy into this issue. He referred the matter to Mr Richard Grellman in 1997. Mr Grellman, in bringing down his report, identified a number of weaknesses within the New South Wales system and made several key recommendations. I will reiterate some of those, because they are relevant to the Greens position on the advisory body.

In considering the weaknesses of the New South Wales system, Mr Grellman identified a marginalisation of the stakeholders. We are concerned that that will happen if we lose the advisory body as is proposed. Mr Grellman noted that there was a lack of consultation and strongly recommended various measures to make amends. In addition to the marginalisation of stakeholders, Grellman also found several other structural weaknesses in the system including: lack of stakeholder ownership in most aspects of the system, including injury management processes, regulation, premium and benefit structures and formulation of legislation; lack of legal and financial accountability and control of statutory funds; lack of incentives for licensed insurers to research and implement best practice injury management processes; as well as a number of other areas in which he saw a need for improvement.

The key recommendations included the formation of a New South Wales Workers Compensation Advisory Council, and he lists its responsibilities. The Greens believe is a great shame that we are losing the advisory body, and we have a problem with that part of the legislation. It is one thing to say that there is a commitment to consultation, but that does not have meaning if we do not have a process in which it can flow through. It will not be as effective as is required. Also, there has been a great deal of discussion regarding schedule 13. The Greens strongly support certificates of currency and believe that they are an important step forward. The importance of the certificates is enhanced by including the range of information described in the bill.

Several sections of the bill are controversial and the outcomes are uncertain, but we believe that the bill provides an important opportunity for reform. The Government has indicated that there will be several more changes to the legislation in the near future and we look forward to debating those in the new year. The Greens

look forward to ensuring that workers compensation is reformed to protect employees and provide responsibly priced insurance for employers. They are the two keys to having legislation that works for the State of New South Wales.

**The Hon. Dr A. CHESTERFIELD-EVANS** [9.15 p.m.]: The bill is a great disappointment. I disagree with my colleague the Hon. Lee Rhiannon, who said that it is nice to see the Government doing something. I am not quite sure that passing legislation is actually doing something! In my view the problem is poor claims management, and that is entirely in the hands of WorkCover, which subcontracts claims management to the private sector. Certainly the private sector insurers believe it is WorkCover's fault that the claims are badly managed. The claims managers are paid by their processes, not by their results. The claims managers have to reply to letters within 28 days so they do not open them for 21 or 22 days, because it is not economic to do so more quickly.

A person with a sore back, for example, is unable to have a scan or see a specialist until a decision is made on the twenty-sixth or twenty-seventh day of the statutory period. That suits the employer in a profit-maximising sense. When the person visits a specialist he or she cannot have a scan for another 28 days or have an operation for a further 28 days, assuming that the doctor has turned the matter around instantaneously, which often they do not. Months go by and the claims cost blows out. Management by the clerks is mostly done on a probabilities index. So when the probability of the person not going back to work and being commuted becomes cheaper than the probability of having the treatment and returning to work, that is where the clerks cut off the benefit—where the two lines across.

If a computer states that that is the probable outcome, and that action is taken, the probability becomes self-fulfilling. Actions are taken on the basis of probability. The future probability also depends on a decision that was based on a probability. Presumably everything converges, given time. That is extremely poor claims management and is entirely in the hands of WorkCover. The insurers are profit-maximising but are not minimising the cost of the claim, nor is any humanity applied to the management of claims. I know about this: I have spent hours on the phone pressing button one, then button two, then selecting option three, then listening to music, in an attempt to get through, if I am lucky, to the same claims manager only to be told that the envelope containing my letter has not been opened yet because it is only three weeks since I sent it.

I have been there, I have done that. I have seen people's lives fall apart while claims are fiddle-faddled around with. This legislation will do nothing to address the problems. It is fiddling around the edges by concentrating power in the hands of the Minister and making minor changes to the number of medical reports needed and to the common law. The idea that simply passing legislation in three stages will fix the problem is wishful thinking. If the Minister wants to fix this he should look inside his department and the way it is managed. He should put some effort into doing that, not just play with numbers in the House and clauses in the bill. I do not believe that the Minister understands what is wrong. One of the main provisions of the bill is to abolish the Workers Compensation Advisory Council and concentrate powers in the hands of the Minister. Item [36] of schedule 1 states:

Omit "Advisory Council" from clause 3 (2) wherever occurring. Insert instead "Minister".

It is fascinating and extraordinary that when the Government does not know what to do it puts more power in the hands of the Minister, even though he does not know what to do. If one did not know what to do, presumably one would set up an independent advisory body, such as the Occupational Health and Safety Council. The Occupational Health and Safety Council agreed with the Grellman report on the causes of the problem, but disputed the solutions in the report. The council insisted on facts about the operation of WorkCover and dug out alternative actuarial figures. Interestingly, its actuarial figures painted a far less gloomy picture of the tail than other actuarial figures did. Had all the figures come from WorkCover, presumably they would have been calculated by different actuaries. I am amazed that the calculations for the cost of a tail can be so different.

Huge achievements are supposedly being made in the reduction of this tail. That means that the project has been set up so that insurers get a huge benefit as a fraction of the tail. In other words, they receive the actuarial assessed likely costs of claims from now to infinity, or when they are resolved. Those claims supposedly make up the deficit of \$1.6 billion, or whatever the amount is. An insurer settles a person's case, so that it has no further obligations, for a trifling sum, such as \$15,000 or \$20,000. Many people whose lives have been ruined by industrial injuries are given that sort of derisory amount. Their marriages collapse, they cannot pay their mortgages, they lose their livelihoods and they settle for practically nothing.

They are told by their solicitors that is all they are going to get. Solicitors' fees tend to be clipped and they believe they will not get any more if they fight the claims. So the injured workers take these derisory settlements. I do not know whether the solicitors are right or wrong in a legal sense or whether they are likely to succeed in negotiations. What I do know is that these people's lives are ruined and they receive practically no compensation. In no way at all do these tiny sums make any sort of restitution for people whose lives have been ruined, often by negligent systems of work and a generally callous approach by a remote insurer, who would not understand their situation and could not care less. I am very discouraged when I hear the pontifications in this House that workers compensation is a financial problem, not a safety problem or a human problem.

The management of workers compensation has come from two angles. Years ago a human approach was taken to safety and a medical approach to injured people. Gradually the disciplines of rehabilitation and occupational therapy, and professions such as occupational therapists, physiotherapists and occupational physicians tried to bridge the gap between the medical system and the workplace. That was considered to be a good idea. Then the notion that doctors might talk to employers was considered to be a great idea and an entire industry of rehabilitation was created, which became a humungous rort.

I remember the rise of this industry in the late 1980s, when I used to deal with the foreman for injured workers at the Sydney Water Board. An occupational health and rehabilitation unit was set up. Injured workers would visit a consultant. What I could have done in consultation for about \$20 in those days would cost \$150 for a consultant to provide a report. I could have examined a patient and told anyone what was needed in far less time than it took me to read a report. A series of experts would report on the injured workers' psychological state, sex life and marriage, how they got in and out of the car, and their chances of going back to work. It was all done without any contact with the employers or a realistic understanding of the future.

Rehabilitation became a rort, and was recognised as such. Figures showed a huge blow-out in rehabilitation costs. That does not mean that rehabilitation, as such, was a bad thing. It simply became an end in itself rather than a well-controlled co-ordination between employers, injured workers and treating professionals. At one stage safety centred on the workplace and the events that happened therein. Then came Heinrich's theories of injury causation. A large number of theories of injury causation are brought into safety management these days. At the other end, risk management says that there will always be some accidents and it is a question of how much they cost. Risk management looks at everything from a financial point of view.

There has been some convergence of the disciplines of risk management, safety management and the human factor. In a sense, the origins of these disciplines still exist. Risk managers are very good at the financial aspect but are not good at analysing the risks in a practical way. Safety officers are very good at analysing the risks in a practical way but not at costing the solutions. So they come from opposite ends. To have professionals who are independent of the Government giving the Government neutral advice seems to be a very good idea. To combine that under WorkCover—which, is responsible for the poor claims management that is at the centre of the cost generation in this scheme—does not address the issue. This bill does not address the issue at all, nor is it necessary to address the issue. The Minister could, by good management of WorkCover, address the huge bulk of the WorkCover problems and the workers compensation blow-outs.

Guidelines, such as the American Medical Association guidelines, are designed to give totally reproducible medical examinations. They do not, but the dogma is that they will. The examinations are very simple and measurable, but the pain and psychological factors are totally unmeasurable. So the guidelines become a farce. They turn a person into a percentage, which limits the compensation. This has already been introduced in the Motor Accidents Authority, with minor modifications. I believe it will come in the next tranches, as they are called, of this legislation. I also believe that the removal of the Advisory Council is part of a Government move to make sure that there are no countervailing voices to any further schemes it introduces.

I ask when is the Government going to fix the insurance aspect. The Government says that will probably come later. In the meantime, it will simply lessen the number of medical reports, make it more difficult for solicitors and generally fiddle around the edges. But the problem is not solved at all. There is the promise that there will be some insurers. To believe that all the insurers will be subcontracted to WorkCover is absurd. The idea of fixing the problem by legislation but not administratively is also absurd. In answer to a Dorothy Dixier by the Hon. J. R. Johnson on 10 October, the Minister said:

The latest actuarial advice shows that the WorkCover scheme is in a better position at 30 June than previously expected. Advice from Tillinghast-Towers Perrin estimates a deficit of \$1.6 billion as at June 2000, rather than the \$2 billion estimated deficit previously advised to the House.

... but it is a pretty big improvement ... I am advised that this is the result of continuing positive outcomes from the commutations strategy and higher-than-expected investment returns for the year. However, cost levels remained high: scheme costs of 2.8.9 per cent versus premium levels of 2.8 per cent, both exclusive of GST. The WorkCover scheme currently has assets of \$6.3 billion but projected liabilities of \$7.9 billion. If costs and premiums are not brought into line, the scheme deficit can be expected to continue to grow. Therefore, despite good result of the past two years, it is still necessary to consider strategies to deal with the deficit.

For this reason the Government will soon call for expressions of interest from organisations to deal directly with the WorkCover scheme deficit: the best financial management minds both here and overseas will focus on identifying solutions for the ultimate benefit of employers and employees. The Government is seeking innovative proposals to substantially reduce the shortfall.

It is all about paying injured workers less in commutations, which has produced heroic results if the huge bonuses paid to insurers is anything to go on. The attack on the tail, which the Hon. M. I. Jones seems so concerned about, is fundamentally an attack on the workers, while the real problem in the management of claims is not being addressed within WorkCover. I am concerned that a solution will entail more bashing of workers involved in the tail through poor commutations, which is very convenient for future negotiations.

Schedule 3 allows further claims to go directly to the insurers. This may be administratively convenient, but the whole problem of workers compensation is the non-involvement of employers. The money comes from insurers, the employer feels confused and needs someone else to get the job done. The employer does not know what is happening with the case, and does not talk to the doctor, the victim or the insurer. The worker is reduced to some sort of a statistic about injury frequency rates for the month in which the injury occurred and, not surprisingly, rehabilitation of the worker is in a big mess.

A better solution is a formal structure in which the injured worker and the employer at a pretty high level within the organisation have to meet regularly, so that the employer can see the human face of the person who sustained the injury in his or her workplace and perhaps feel a twinge of guilt and think, "We can't go on like this. What can be done?" Human factors are still important. It is not all about \$1.6 billion tails. Last Friday I was in my surgery with one of my hand injury victims who had a progressive arthritis in an unusual wrist: the ulna bone projected into the hand and the hand bone was unusually shaped.

I thought it was a case of repetitive strain injury [RSI]—not that RSI exists, because it has been defined out of existence—but it was occupational use syndrome of the wrist, carpal tunnel, or whatever one wants to call it. In short, it was a painful wrist. However, it turned out to be an advanced arthritis. My patient was a cleaner who worked 20 hours a week for two different employers to make a total of 40 hours a week. She had some treatment, which did not work. She then had an operation, which did not work. She now has a very sore wrist, which is not very strong.

I received a call from an injury management doctor who said, "You know, we are very concerned to get her back to any sort of light duties." I presume this is merely a negotiating tactic because had he examined her he would have realised she was never going to go back to work. I told him as much, and he said, "Yes, yes, but I just want to make the offer." I presume he was paid to do that. In a sense it is part of a negotiating game without a realistic assessment of the case, which could have been resolved far more quickly if it were actively and properly managed. Both employers had left the case a long time ago, and it was simply a matter of fixing up the tail.

Insurers, doctors, rehabilitation practitioners, victims and employees should have compulsory quarterly meetings so that serious answers could be worked on and employers could see the human side, as would claims managers who, unfortunately, take their instructions from the probability of return to work tables derived on a computer memory chip. The removal of common law rights is dangerous. My experience of the trend towards statutory benefits is that they go down against inflation until they are at derisory levels. Reliance on the American Medical Association tables controls costs by using a totally arbitrary and foolish system of working out the level of supposed disability. Impairment and disability are totally confused, even in the definition in the table, and the benefits do not relate to the injury or the capability of the employee.

It is interesting to note that such tables are used by the Motor Accidents Authority, and I am concerned that this Government will introduce them for workers compensation for administrative convenience. The only hope we might have is that the unions will fight a bit harder for workers compensation than they did for the Motor Accidents Authority. The Hon. M. I. Jones spoke somewhat critically of the common law because of its arbitrariness, but one cannot help thinking, as in Shakespeare, "And earthly power doth then show likest God's when mercy seasons justice." When people actually see the injured workers and the situation that caused their injuries, or contributed to their injuries, they will feel some compassion and that may be reflected in their settlements.

Anyone who has seen as many injured workers as I have would certainly hope that would be the case. In schedule 5, contributory negligence reduces workers' entitlements, and that is a worry. As contracts are replacing awards a person on contract is in a similar situation to an employee. Schedule 6 is a good idea. The bill has some good ideas, although they are relatively minor. Schedule 6 states that insurers must set out in plain language why they dispute liability. Schedule 7, in limiting medical reports, grossly favours defendants in that they frequently received medical reports but use only those that are most favourable.

Plaintiffs see what is happening; they get a large number of reports and it is a huge waste of medical time. Limiting costs on medical reports is likely to disadvantage plaintiffs against defendants. It is interesting that defendants will spend huge amounts of money on a defence that the plaintiff simply cannot match. Schedule 9 is good to the extent that a primary insurer can act for a number of insurers. I have a number of patients who have a number of jobs—for example, the person with the wrist arthritis of whom I spoke had two jobs—and that is a huge problem. It is also a huge problem with regard to dust diseases. The legislation refers only to dust diseases, but some of the occupational overuse syndromes can also be a problem and probably should be encompassed within schedule 9.

Schedules 10 to 13 deal with small businesses that change their corporate names, or big corporations that go broke, to evade debts or otherwise try to avoid their debts or premiums. Employers have to meet their obligations in this regard. Schedule 14 is good in that it covers deceptive insurers as well as claimants. I am pleased that insurers who do not do the right thing are covered by the legislation. I am not sure whether they were covered previously. We need to guard against deceitful employers who try to avoid their obligations under workers compensation. We also have to guard against insurers who pay late or who consistently underpay employees.

This happens quite frequently, particularly in casual employment when employees work a certain number of hours per week. The employer says, "You work a variable number of hours. We will choose an average." The average is always chosen so that somehow the average payment of hours per week ends up being less than the number of hours the employees were working when they were injured. If the employees had built up their hours they are taken over a longer time frame so that the mean goes down, which affects employees because their spending tended to be at the level of their last few pays. Schedules 15 to 17 relate to the powers of inspectors and to penalties, which seem fine. Schedule 18 prohibits an employer from taking premiums from wages, and that is good. Schedule 19 binds the Crown, and that is only fair. Schedule 20 makes arrangements for insurers to opt out of the system. Schedule 21 deals with employers' premium appeals.

Some of the good things happening in workers compensation are in the medical area, in relation to which liaison with workplaces is improving. However, I believe it is a mistake to talk about abolishing the training program Kelvin Wooller operated in WorkCover. It was a worthwhile initiative, and it is wishful thinking to suggest that it can simply be given to the general practitioner college. I am prejudiced in that approach as I am an occupational health physician by profession and I believe my training was far more detailed than the few weekends that general practitioners may organise for training. Rehabilitation has improved and that has made a difference. The difference that came from the 1999 legislation of Minister Shaw related to improvements in rehabilitation. Medical people are doing their bit to improve the situation far more than insurance people are.

Lack of data is a big problem, and that has been alluded to a number of times. If WorkCover were more transparent, it would be a lot easier to get the data to ascertain where the problems are. It is a matter of going within WorkCover, and quite often organisations dealing from without do not seem to be able to do that. That is why I believe the Minister is in the best position to attack the problem, and his chances of success would be greater if he regarded it as a management problem in his own backyard rather than as a legal problem to be dealt with in this House. A parliamentary inquiry would be a good idea if it could get to the bottom of what happens in WorkCover. Of critical importance is what happens in insurance, and it seems that the many solutions advanced in this House deal with everything except this aspect. Until we deal with that aspect, we will only be tinkering with the problem. I am afraid this bill is a tinker, and I will support it only after some major amendments, including not consolidating the two councils and abolishing the Occupational Health and Safety Council.

**The Hon. I. COHEN** [9.42 p.m.]: Along with Ms Lee Rhiannon I share some concerns and some hope that we can at least progress the area covered by the Workers Compensation Legislation Amendment Bill, which has had a long and controversial background. It seems that successive governments of both political persuasions have been unable to get the workers compensation scheme right in New South Wales. Since this Government

was elected in 1995 it has made amendments to the workers compensation scheme in 1995, 1996 and 1998. The real problem with the WorkCover scheme is that it loses money at an alarming rate. In May 1990 the WorkCover board revealed that the scheme had a surplus of \$1.1 billion. Premiums were set at 2 per cent of wages. This was a huge reduction from 3.8 per cent of wages in the 1986-87 financial year.

In those days the scheme was privately underwritten. In 1987 the Government introduced legislative changes that ended private underwriting and moved to public underwriting. Premiums continued to drop over the next few years to 1.8 per cent in 1991-92. Those rates were maintained for the next three years. This was the beginning of the deficit. Grellman noted that at this time the true cost of claims was estimated to be higher, but the difference was being offset by investment income on the surplus, which was \$1.1 billion in 1990-91. On page 14 of her parliamentary briefing paper Roza Lozusic noted:

Under funding seems to be a substantial contributing factor to the cyclical deficit problems faced by the WorkCover scheme. When the target premium rate was quite low, it still did not reflect the true cost of the scheme and the shortfall was being met by the surplus.

This is an excellent briefing paper and much of the information in this speech has come from that paper and the report of the Grellman Inquiry into the Workers Compensation System in New South Wales, which was published in 1997. Jeff Shaw, Attorney General in 1997, in response to a budget estimate question, stated:

It was obvious many years ago that WorkCover was being underfunded and that the premium was simply too low to meet the expenditure.

From 1992 to 1994 the scheme showed signs of deteriorating and in 1995 it had collapsed. The surplus had been eroded by almost \$1 billion because of adverse claims and poor investment experience. In June 1996 the published deficit was \$454 million. In that year various cost containment measures were introduced including the suspension of further increases to permanent impairment and pain and suffering maximums, the reduction in certain permanent impairment awards for pre-existing conditions, a 6 per cent threshold on deafness claims and restricting stress claims. In January 1997 a second round of amendments came into force. These included a further reduction of 25 per cent in permanent impairment and pain and suffering awards, limiting claims to cases where employment is a substantial committing factor, review of weekly compensation benefits after two years and a new trial conciliation process.

The deficit peaked in 1997-98 at \$1.67 billion and was reduced to \$1.64 billion in the 1998-99 financial year. Grellman found that the key financial cost drivers "responsible for the deterioration of the scheme's financial position were primarily permanent impairment and pain and suffering awards and the deterioration in the duration of weekly benefits". However, the Greens believe that these problems could be overcome by ensuring that premiums are set and paid at an adequate level to underwrite the continuing viability of the scheme. According to the "Workers Compensation and Occupational Health and Safety" newsletter of August 2000, low premium rates are a major contributor to the deficit. Other causes are employee fraud and overinvolvement of the legal profession. The newsletter stated:

The Government has been convinced that NSW employers could not afford premium rates higher than an average of 2.8% of wages. This of course is a nonsense because so few NSW employers actually pay the average rate.

The newsletter continued:

Continuing to collect less in premiums than is paid out in claims through artificially pegging the average premium rate at 2.8% is irresponsible and simply bad policy.

The newsletter targets employer fraud as a major contributor to the deficit. It argued:

A major incidence of fraud is that which is committed each year by employers who deliberately under declare wages paid to employees thereby avoiding paying their full premium. In one industry alone—construction—under declaration is admitted by peak industry bodies to be at least 30%. In the wider employer community fraud by under declaration is believed to be at least 10% of the total premium—around \$200 million each year.

On the other hand, the incidence of employee fraud is said to be very low. Therefore, we are pleased that the Government has recognised the seriousness of the situation and has acted to impose personal liability on directors of companies in relation to unpaid premiums. The next step is for the Government to ensure that premiums are set at a level that ensures the viability of the scheme. The newsletter attacked the entrenchment of the legal profession in the WorkCover system. While WorkCover in New South Wales is a no-fault scheme, it has the highest involvement by the legal profession than any other Australian jurisdiction. For instance, in New South Wales insurance companies are paid up to \$180 million to administer the system, that is, around 9 per cent of the system costs each year. Doctors are paid \$160 million and lawyers \$240 million, which is around 11 per cent of the system costs.

The bill contains some provisions that are aimed at reducing unnecessary legalism in the system. In particular, the provision that limits the number of medical reports is welcome. Litigation that is carried out to protect the interests of injured workers should not require expensive and unnecessary overservicing by the medical and legal professions. One major concern of the Greens is the provision in the bill that would result in a reduced role for the Workers Compensation Advisory Council and merging of the council with the Occupational Health and Safety Committee. The council provides an important avenue for public participation in WorkCover activities. Any lessening of the council's role would mean a decrease in the accountability of the Minister. Therefore, the Greens will support the Opposition amendment that is designed to retain the council in its present form.

A serious concern is the extensive plenary regulation-making powers that the bill gives to the administrators of the scheme. The Greens will closely examine the content of regulations made under the Act. Any regulations that are aimed at reducing the entitlements of injured workers will be the subject of disallowance motions. The Greens are pleased that the bill does not take the easy and unfair option of blaming injured workers for the deficiencies in the scheme. However, despite some worthwhile elements, the bill is a very minimalist approach to addressing a subject that is of great importance in the community. The Minister has briefed crossbenchers on the Government's future plans for a series of major changes to the Act. He has promised that this is simply the first in the series. We hope those changes will be directed to rectify the real defects in the scheme.

**The Hon. J. HATZISTERGOS** [9.51 p.m.]: Successive governments have sought to reform the New South Wales workers compensation scheme to target problems associated with the underlying costs of the scheme. Reforms were made almost every year—in 1986, 1987, 1989, 1991, 1992, 1994 and 1995—during the previous Government's tenure in office, and in the life of the present Government there were three major reforms of the scheme, in 1996, 1997 and 1998. During the terms of the Coalition Government and this Government there were also other minor reforms from time to time. As I said, since 1995 the Government has enacted three packages of legislative reforms aimed at arresting and reversing a decline in the scheme's performance. These reforms have reduced costs. Cost levels started to increase during the Coalition Government's tenure in 1990-91, they peaked in 1995-96 and have since trended down. Most recent studies have suggested that the downward trend has stalled. On 25 August 2000 in a radio interview the Leader of the Opposition accurately said that the responsibility for what has occurred with the scheme rests not just with this Government but also with the previous Coalition Government.

The deficit has grown and will continue to grow while costs exceed the amount of premium collected. The reason for this is the Government's decision to maintain premiums at 2.8 per cent of wages. This bill is the first in a series of reforms designed to bring about a sustained improvement to the scheme. A priority area of the bill is to establish a framework within which employer compliance with insurance obligations will improve. On 25 August 2000 the *Daily Telegraph* published a survey—I do not know how rigorous it was—in relation to compliance issues. It showed that honest employers were being forced to lay off staff because the costs of workers compensation premiums were higher than they otherwise would be because some people were not meeting their obligations to pay workers compensation premiums. Shonky operators were closing down businesses and starting new ones to avoid WorkCover payments.

The Minister has outlined in his directions statement for the workers compensation scheme that a small number of employers, because of poor performance on a number of important scheme obligations, are adversely impacting on the many employers who are doing the right thing. To that extent the survey conducted by the *Daily Telegraph* may have some force. Where an employer is not insured or has not paid enough premiums, the cost of any claims made by that employer's injured workers is picked up by the scheme. As a result, non-insurance or inadequate insurance by some employers pushes up the premium rates for other employers who contribute to the scheme. Because of the inequity of this situation the Government takes the view that employers avoiding their premium obligations should be brought to account.

The Government's approach to improving compliance is to encourage voluntary compliance by informing employers about their obligations and making it easier for them to comply. However, where voluntary compliance is not achieved, the bill will provide the means to directly recover any premium owing and prosecute those employers who attempt to avoid their obligations. A number of provisions of the bill will facilitate this objective by providing additional avenues to recover unpaid premiums. Schedule 10 provides that directors of companies are personally liable for any unpaid premiums where they were aware that false or misleading information was provided to an insurer or they failed to ensure that a policy of insurance was taken out by the company. The authority is aware of numerous instances of companies incurring significant debts from failing to take out the correct policy of insurance or deliberately underestimating their wages to obtain a cheap premium. In some cases the directors of the company are fully aware of the breach.



Schedule 10 contains amendments to assist the authority to recover unpaid premiums where the employer has failed to keep adequate records of wages in accordance with the current Act. It should be noted that under the current provisions of the Act employers that make false and misleading statements can be required to repay twice the unpaid premium. It has been suggested that small employers should not be subject to this penalty. However, this misunderstands the fact that those employers who make honest mistakes are not caught by the provisions. Only those that set out to mislead insurers can be subject to the double premium penalty. Schedule 11 will enable the costs of the audit to be recovered where it is found that the employer has understated the wages paid by 25 per cent or more. Schedule 12 seeks to correct an anomaly in the Act that creates an incentive for unscrupulous employers to understate their wages. The amendments to section 175 provide that interest can be recovered in cases in which wages are underdeclared from the date that the employer should have paid the correct premium.

The introduction of these penalties will significantly strengthen the ability of WorkCover to secure the compliance of employers with their legal obligations. The bill will also provide a legislative basis for certificates of currency, which have been trialled on a limited basis, for industry to self-check that employers are complying with their insurance obligations. Contractors, union officials and WorkCover inspectors will be able to request to see an employer's certificate of currency. The certificate will contain information relating to the premium paid and the basis on which the premium was determined. Cases of underinsurance and non-insurance can then be referred to the WorkCover Authority for more detailed investigation. Workers and service providers to the scheme also have obligations to act fairly and honestly. To ensure that these obligations are observed and to deter dishonesty schedule 14 will create a new offence of fraud against the WorkCover scheme. Such fraud includes offences such as service providers making false claims or overservicing.

The bill also prohibits false statements made by others such as accountants or financial advisers where such a statement is made to assist an employer to obtain a lower premium. The enactment of this provision does not prevent separate proceedings being taken under the Crimes Act 1900, notwithstanding what has been suggested in a foreshadowed Committee amendment. Employers and workers will benefit by the strong measures being taken by the Government to reduce the level of non-compliance with workers compensation insurance legislation. The amendments outlined in schedule 15 will bring the enforcement provisions of the workers compensation legislation into line with the recent Occupational Health and Safety Act 2000. This will allow authorised officers to apply for a search warrant in order to gain entry to premises for the purposes of carrying out inspections. Rights relating to self-incrimination are also clarified in line with existing provisions in other Acts.

To complement these proposals, and in recognition of the great majority of employers who do the right thing, the Government has announced a premium discount scheme that will provide market incentives for employers to improve their injury prevention and injury management performance. This scheme will benefit employers through providing premium discounts and ultimately lower premiums, which can be expected to flow from improved prevention and injuring management activities. However, it will also benefit workers by reducing the risks in the workplace and providing a secure system to manage injury and provide a focus on recovery and return to work. Overall, the proposals should produce about \$75 million in savings, and a further \$20 million savings will result from issues associated with the compliance amendments. This includes an information campaign to raise awareness about the existing legislation. In the longer term the proposed premium discount scheme will provide savings of about \$40 million. The bill provides a fair and balanced approach to ensuring compliance and preserving the integrity of the WorkCover scheme. For that reason particularly I support the bill.

**Debate adjourned on motion by the Hon. P. T. Primrose.**

## **SYDNEY 2000 GAMES ADMINISTRATION BILL**

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

**Motion by the Hon. J. J. Della Bosca 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.

## ADJOURNMENT

**The Hon. M. R. EGAN** (Treasurer, Minister for State Development, and Vice-President of the Executive Council) [10.01 p.m.]: I move:

That this House do now adjourn.

## ULTIMO TAFE CHILD-CARE CENTRE

**The Hon. PATRICIA FORSYTHE** [10.01 p.m.]: Tonight I want to call on the Sydney Institute of TAFE to reverse a decision that is causing much anguish for parents who are students at the Ultimo campus of the institute. On behalf of the students I request that the decision to close the on-campus child-care centre from Easter 2001 be reversed. The centre is a purpose-built child-care centre, opened only about five years ago with money from a Commonwealth grant. I am advised it is ranked in the top 2 per cent of centres in New South Wales by the Department of Community Services. Currently, the kindergarten union is contracted to provide services to the centre and is licensed for 50 places. The centre has 15 places for under two year olds and 15 places for two to three year olds. These are vital for mothers in particular who may be seeking to reskill after a period out of the work force.

This semester 95 children from 85 families used the centre. Of that number five places were available to staff, the remainder to the students. Twenty-six of the students are single parents and a significant number are from non-English-speaking backgrounds. A majority of the students who access the centre do not have access to private transport, and that factor is relevant in terms of other options being promoted to students. The reason being given for the closure is that TAFE management allegedly wants the removal of the centre to provide green space for students. However, students claim that the area would amount to an additional 150 square metres.

One view is that the decision is really about cost savings. However, if that is so, matters need to be put in context. The centre is only five years old and students are being offered subsidies to use other centres near their homes. Apparently, there is a plan to spend \$100,000 to refurbish a centre in McKee Street, Ultimo, some distance from the TAFE, but students want the benefits of the on-campus centre. Approximately 700 students at the college have signed a petition in support of retention of the childcare centre, and staff from the Teachers Federation and the Public Service Association have indicated support.

TAFE has two proposals for the offering of places from next year but, in the students' eyes, they are far from ideal. One involves the refurbishment of the McKee Centre but in addition to the \$100,000 TAFE is proposing to contribute, the Department of Community Services apparently is to provide \$150,000. However, the centre cannot be for the exclusive use of TAFE students as the centre will be funded as a community centre and, as such, students can only access some of the 45 places classified as "community". The other proposal involves subsidising students to access centres near their homes.

Students have also been advised of Star City casino's staff kids centre, which is located an eight-minute walk from the TAFE. However, as most students commence the walk at Central station, it is a long walk of about 20 minutes for small children. For mothers of babies at the centre, including breastfeeding mothers, this is not a real option. The Government should be promoting TAFE to mothers to reskill. Its short-sighted policy is undermining the capacity of Ultimo TAFE to offer a realistic second chance for many parents. On behalf of the students I urge a rethink on this issue.

## NORTH-EAST FORESTS PLANTATION ACCREDITATION

**The Hon. R. S. L. JONES** [10.04 p.m.]: I received an email yesterday from John Seed, Ruth Rosenhek, Anja Light and Phil Murray, of the Rainforest Information Centre, which has probably saved more rainforests than any other organisation on earth. It is active in many countries, including Ecuador, Chile, Solomon Islands, Papua New Guinea and India—all over the world. It is a widespread organisation that has had tremendous success. It has even received financial support from the Federal Government. The centre wrote a letter to Andrew Lugg, Acting Deputy General Manager, Native Forests Division, State Forests New South Wales, Coffs Harbour, opposing the accreditation of over 15,000 hectares of public forest in north-east New South Wales as hardwood plantations under the Timber Plantations (Harvest Guarantee) Act 1995. The letter stated:

State Forests are seeking accreditation of these areas of public forests so as to give themselves the unfettered right to manage them as cellulose crops. They want all harvesting restrictions removed, particularly those intended to protect threatened species and restrict clearfelling.

While many of the areas claimed as plantations have been severely abused by State Forests in the past, they are now best described as areas of naturally regenerating forests that don't meet the legal definition of plantations. They have not been managed as plantations, they only recently appeared on maps as plantations, and anyone standing in the forest would be unable to discern where the so-called plantations began or ended. The trees are not in rows and the canopy is composed of several species as you would expect with natural regeneration.

Of particular concern to us are the numerous threatened species which are known to inhabit these claimed plantations and which are intended to have all legal protection removed. Nationally endangered plants, such as the Minyon Quandong and Peach Myrtle, which are struggling to recover from past abuses by State Forests, are about to have their legal protection removed. Family groups of threatened animals, such as Koalas, which have been decimated in the past are about to be given their death sentence.

This proposal to treat native forests as plantations is also a threat to our regional water supplies. For example, over half the claimed plantations in Whian Whian State Forest are within the catchment of the Rocky Creek Dam which is the water supply for Lismore—

and also other areas near where I live—

Clearfelling of forest areas within important catchment areas should not be allowed.

Many of the areas of native forest now being claimed as plantations do not meet the legal definition to allow accreditation. This means that State Forests are fraudulently reclaiming native forests as plantations. They have proceeded in the expectation that they will get the political support to accredit such areas irrespective of the law. I oppose this process and seek protection of these areas.

Madam Deputy-President, you would have an interest in this area, which is in your local district. I ask the Minister to act immediately to ensure that State Forests at Coffs Harbour does not abuse the Timber Plantations (Harvest Guarantee) Act 1995 by trying to accredit areas as plantations that are clearly not plantations and have never been plantations. This is clearly an abuse of the Act by State Forests and I ask the Minister to act immediately to ensure that these forests, if they are to be logged, are logged carefully and not cleared for plantations, because this will have a devastating effect on the local wildlife, including endangered species.

#### **PREMIER, MINISTER FOR THE ARTS, AND MINISTER FOR CITIZENSHIP TRADE MISSION TO CHINA**

**The Hon. H. S. TSANG** [10.08 p.m.]: I wish to report on the success of the Premier's trade mission to China, which took place from 4 to 10 November. The visit by the Premier, the Hon. Bob Carr, has facilitated a great number of business initiatives for Australian business operating in China. These include the export of New South Wales' education, wine, building design and construction products, and the promotion of tourism and the environmental protection industry. In Guangzhou, Guangdong, our sister State, the Premier was received as a visiting head of State by my old friends the Governor and party secretary. The Premier and the Governor of Guangdong opened the Kingold Education Centre, a modern university facility that received investment from an Australian citizen, Mr Kingold Chau of Sydney.

The Premier witnessed the signing of a formal agreement between the University of Western Sydney and Kingold Education Centre to deliver the master of business administration course to Guangzhou. The Premier witnessed also the signing of a memorandum of understanding between Charles Sturt University and Kingold Education Centre to deliver the graduate diploma in police management, master of information technology and master of health service administration. I am honoured to have had the privilege of matching the business partners in these agreements.

In assisting the New South Wales environment protection industry the Premier facilitated the signing of a memorandum of understanding [MOU] between the CRC for Waste Management and Pollution Control Limited and the Guangdong Environment Protection Industry Association. The Premier met with the Guangdong Airport Authority together with several New South Wales-based companies which have expressed strong interest in the bid to build the new Guangzhou airport. New South Wales quality of building design, construction and materials were highlighted and promoted by the Premier.

The Premier also announced the inaugural flight of the China Southern Airline from Guangzhou to Sydney, which will take place on 6 December. It will fly three times a week to Sydney, bringing an estimated 12,000 tourists to Sydney. The China Southern Airline new scheduled flights will benefit the New South Wales tourism industry. In Beijing the Premier held a successful meeting with the Mayor of Beijing and the Beijing Olympic Bid Committee. Should Beijing's Olympic bid be successful I have no doubt that the Premier's visit will enhance future business opportunities for New South Wales building, construction and design industries.

The Premier also witnessed the signing of an MOU between TAFE New South Wales and Beijing for the delivery of a broad range of TAFE New South Wales courses across all provinces in China, using the Open Training and Education Network—Distance Education. I am honoured to have facilitated the matching of the business partners when they were in Australia. In Shanghai the Premier met with my old friend the Mayor of Shanghai and attended an Australian business dinner to promote the New South Wales wine industry. The Premier also witnessed the signing of a MOU between UTS and the Shanghai Justice Bureau for an Australian legal training course.

Wherever the Premier and I travelled in China we received endless compliments for the best ever Olympic Games 2000 in Sydney. It is timely that the Premier should ride on the success of the Games to promote New South Wales trade overseas, thereby creating jobs and opportunities for New South Wales and Australia. I congratulate the Premier on his visit.

#### **AUSTRALIAN AND NEW ZEALAND INTENSIVE CARE FOUNDATION**

**The Hon. Dr B. P. V. PEZZUTTI** [10.11 p.m.]: Tonight I wish to draw the attention of honourable members to the increased activity to raise money to enable the Australian and New Zealand Intensive Care Foundation [ANZIC] to conduct research. The corporate launch of the appeal to raise funds for this research was kicked off by the ANZ Bank with a donation of \$250,000. A full commercial board has been set up, led by Mr Campbell Anderson, who is the President of the Business Council of Australia. The executive includes Mr Peter Bunn and the foundation chairman, David Tuxen. The Australian board members are: Helen Nugent from the Macquarie Bank; Meredith Hellicar, the National Chief Executive Officer of Corrs Chambers Westgarth; Richard Hein, Chairman and Managing Director of P&O Australia; Mr Greg Camm, Managing Director, ANZ Mortgages; Mr Terry Campbell, Chief Executive Officer of JB Were and Company; Mr Russell Jones, Managing Director, AMCOR Limited; Mr Brian Jamieson, Chief Executive Officer, KPMG; and Dr James Fox, Chief Executive Officer, Invetech/Vision Systems.

This is a very strong board to raise the profile of this much-needed foundation. The foundation also includes our New Zealand colleagues, who will be establishing that country's board. They have already identified people who are prepared to spend time on that board, including: Dr Murray Horn, Managing Director, ANZ New Zealand; Mr Gary Paykel, Chief Executive Officer of Fisher and Paykel; and Ms Joan Withers, a director of multiple companies. Joan Withers has been instrumental in enlisting the commitment of the Warehouse, which is a publicity company. In conjunction with ANZ, in a manner similar to Coles and Bi-Lo in Australia, they conducted a very major public face during intensive care week, which commenced on 16 October. The night went very well with people purchasing wrist bands. All of that money will go to the foundation.

Trump Communications, led by Joanne Rusco, will act as the publicist in a manner similar to Horizons. Dr Nigel Rankin has been appointed to the ANZIC Foundation Committee of Trustees and will lead the foundation's activities in New Zealand. I congratulate the foundation and those major public companies for identifying the need to raise money for research into intensive care but, more importantly, the commitment by the ANZ Bank in Australia to kick off the appeal with a donation of \$250,000. The aim is to raise \$10 million to give the foundation a firm financial basis from which to draw research funds and also attract researchers in Australia to undertake research into intensive care.

#### **BIODIESEL FUEL**

**The Hon. I. COHEN** [10.15 p.m.]: Petrol prices have risen 20 per cent in the last year and are on the way up. Many service stations in Sydney are charging well over a dollar and people in country New South Wales are paying even more. It is time to look at ways of fuelling vehicles other than with traditional petroleum products. One such way is to convert engines for less than \$100 each so that they can use biofuel. This is a "grown" fuel, oil that can be extracted from hundreds of different plants or made using waste fats or cooking oils. It is made by combining 30 per cent ethanol—an alcohol—with 0.35 to 0.75 per cent sodium hydroxide, also known as caustic soda or lye, with 80 per cent to 90 per cent vegetable oil.

Biodiesel can be used in diesel-fuelled cars, trucks, generators, boats, buses, trams, planes, pumping stations, tractors and agricultural equipment, under warranty from 20 different engine manufacturers. It is a proven fuel with over 30 million successful road miles in the United States of America and more than 20 years use in Europe. Biodiesel is an important fuel alternative which is being taken seriously in many parts of the world. The study entitled "Review of Commercial Biodiesel Production Worldwide" was commissioned by the International Energy Agency and completed by the Austrian Biofuels Institute in 1998. It identified 21 countries around the world in which biodiesel projects with a commercial objective had been implemented.

European nations such as France, Italy, Germany and Austria are particularly advanced with implementation. Austria has the Austrian Biofuels Institute in Vienna, and Germany has more than 1,000 filling stations stocking biodiesel. Production has increased in recent times in the United States of America since it was approved by Congress in June, with a modern MFS-Biodiesel plant of Griffith Industries in Kentucky. I am pleased to see that there are also positive moves towards biodiesel production in Australia. The Biodiesel Association is in contact with 11 private companies which are ready and willing to start production of biodiesel in Australia, the issue of excise and State taxes being the last hurdle for this promising industry. I have also received unconfirmed reports that the Western Australian Government has give a grant for a biodiesel production trial.

Paul Martin of the Australian Biodiesel Association advises that he has received widespread support for the expanded use of biodiesel in Australia. The Commonwealth departments of Primary Industries and Agriculture are now investigating possibilities for assisting tobacco and dairy farmers in northern Queensland to convert to oil crops for biodiesel. The benefits of using biodiesel are enormous. One key reason is, of course, the cost which is particularly competitive with normal fuel sources. By utilising existing waste oil sources for biodiesel there are also possibilities for companies to sell their waste oil while creating eco-efficiencies in their production processes.

Secondly, biodiesel is the only alternative fuel that runs in any conventional, unmodified diesel engine. It can be used alone or mixed in any ratio with petroleum diesel fuel. The use of biodiesel can extend the life of diesel engines because it is more lubricating than petroleum diesel fuel. Thirdly, the production and use of biodiesel produces approximately 80 per cent less carbon dioxide emissions and almost 100 per cent less sulphur dioxide. Carbon monoxide, hydrocarbons and particulate levels are similarly reduced. The low emissions of biodiesel make it an ideal fuel for use in marine areas, national parks, forests and heavily polluted cities. When burnt in a diesel engine, biodiesel replaces the exhaust odour of petroleum diesel with the pleasant smell of popcorn and french fries. I have a friend, Howard Furness, who drives his tractor on used cooking oil that he collects around the district. As he ploughs and slashes his field and works throughout the day he does so with the pleasant smell of chips in the air.

Fourthly, biodiesel is safe to handle and transport because it is as biodegradeable as sugar, 10 times less toxic than table salt and has a flashpoint of 300 degrees Fahrenheit compared to petroleum diesel fuel which has a flashpoint of 125 degrees Fahrenheit. Finally, biodiesel can be made from domestically produced, renewable oil seed crops such as soybeans. Producing biodiesel from domestic crops reduces Australia's dependence on foreign petroleum, increases agricultural revenue and creates jobs. National spending to import petroleum means that we send significant amounts of money out of our domestic economy each year, bearing in mind that we import 100 per cent of our diesel fuel.

Biodiesel from either waste oil or domestic crops offers the potential to shift this spending from foreign imports to domestically produced energy. The Greens would like to see biodiesel promoted as a safe, cost-effective petroleum alternative. Governments in other countries have identified the multiple benefits of biodiesel and are reaping the benefits. I encourage government commitment and investment to this end in New South Wales.

### **GLENBROOK RAIL ACCIDENT COMPENSATION**

**The Hon. Dr A. CHESTERFIELD-EVANS** [10.20 p.m.]: I refer to an article in the *Sydney Morning Herald* on 13 November which stated:

Victims of the Glenbrook train accident will take the State Government to the Supreme Court today after rail authorities demanded that victims pass a disability test before they are paid any compensation.

It is almost the anniversary of the tragedy, which occurred on 2 December last year, and 36 victims, including families of six of the seven dead, will argue their case in court after private negotiations with the State Rail Authority [SRA] failed. Their law firm, Keddies and Associates, is trying to convince another nine law firms representing another 15 survivors to join in the class action. Obviously, there are millions of dollars in compensation at stake for problems ranging from nightmares and panic attacks to disfigurement, back pain and broken bones. The article also stated:

At the centre of the standoff are amendments made to the Motor Accidents Compensation Act just two months before the accident.

I argued against those amendments and said that the American Medical Association [AMA] guidelines for the assessment of permanent impairment were indeed a farce, because in order to minimise error or differences between observers the AMA had created a relatively meaningless index which related to the degree of movement of a limb rather than the amount of pain caused by that movement. The index, while supposedly reproducible, is only close to being reproducible and has lost any real meaning. The article continued:

The amendments, intended to cut the cost of greenslips by \$100, means accident victims can only receive compensation for pain and suffering if there is permanent disability of more than 10 per cent.

A Keddies partner, Mr Tony Barakat, said the legislation should be waived because many Glenbrook victims would get no compensation ...

While 10 per cent may not appear to be very high, the criterion is so stringent that only those who are catastrophically injured will qualify.

Mr Barakat said the claims, for both physical and psychological injuries, would range from \$35,000 to \$500,000.

"The more significant injuries are, by far, the psychological injuries, leaving aside those that were fatally injured.

"The way that these injuries have affected the victims and still affect them today range from mild anxiety experienced when travelling in trains, to a total devastation of the lives of others.

"Some of the victims have, in fact, been certified medically unfit by their employers and have, as a result, lost their jobs and their livelihood. They may never be able to return to the workforce.

Interestingly, the SRA spokesman said that to date it had paid more than \$420,000 to victims and their families, with assistance matching the needs of each individual. That is \$420,000 in almost 12 months spread over 36 victims. That is a long way from the large amount that would be needed to settle the case. On 29 August I asked the Special Minister of State, and Assistant Treasurer a question relating to compensation for victims. He replied:

Claims arising from the Glenbrook train disaster are not claims made under the Motor Accidents Compensation Act. Claims should be made in the normal way and may involve commencing court proceedings by way of a statement of claim. People who may be entitled to compensation should seek legal advice. Claims may be settled without reference to the Motor Accidents Compensation Act. However, if the matter is disputed the determination of damages is in accordance with chapter 5 of the Motor Accidents Compensation Act.

The Act provides, first, for damages for economic loss such as compensation for medical and rehabilitation expenses, counselling expenses and loss of earnings. Second, it provides for damages for non-economic loss such as pain and suffering if the person has been assessed as having more than 10 per cent permanent whole body impairment. There is a cap for non-economic loss of \$260,000. Third, psychiatric injuries are covered by the scheme. A person will be entitled to non-economic loss compensation if the person is assessed as having greater than 10 per cent psychiatric or psychological impairment.

The proof of the pudding is in the eating. There is a great deal of sympathy for victims of the Glenbrook train disaster. The levels of cover under the Motor Accidents Compensation Act are totally inadequate. The systems are a farce, particularly in the psychiatric area, and the setting of assessment thresholds has made it very difficult to get more than 10 per cent compensation. This is quite unjust and I hope that the Glenbrook victims win their fight for compensation. The AMA guidelines are inadequate and hopefully will not be used further in New South Wales.

### MOSCOW 1980 OLYMPIC GAMES

**Ms LEE RHIANNON** [10.25 p.m.]: On 30 August and 5 September the Treasurer, Mr Michael Egan, attacked me in this House over my support for the Olympic Games held in Moscow in 1980. I am proud to remember the battle to ensure that Australians did participate in the Moscow Olympics. This is an inspiring story of the selfless support Australian maritime workers gave to Australia's 1980 Olympic team, assistance that was crucial to their participation in the Moscow Games. In 1980 the United States of America was aggressively pushing for a boycott of the Moscow Olympics. The Fraser-Howard Government, with Mr Howard as the Federal Treasurer, was keen to do whatever it could to please Washington.

The Australian Olympics Federation [AOF], as it was then known, came under enormous pressure to pull out of the Olympics. Major sponsors Qantas and the Commonwealth Bank withdrew support. Shell withdrew its \$20,000 donation to the AOF. At that time, Kevan Gosper, just three years into his stint as the Australian representative on the International Olympic Committee, held a senior position with Shell. The Seamen's Union of Australia, known today as the Maritime Union of Australia, became involved when representatives of the rowing association and the water polo teams approached it. The response from the union was fantastic. Women and men rowers and water polo players were sponsored and the union promised to replace the \$20,000 that Shell had reneged on.

On the eve of the historic meeting to decide on the boycott proposal, the then Prime Minister, Mr Fraser, sent a telegram to all AOF members urging them in the national interest not to go to Moscow. Fraser's hypocrisy knew no bounds, because at the time he was trying to ban our athletes from participating in the Olympics wool from his Nareen property was being shipped to Moscow. But the intimidation was not successful.

**The Hon. Dr B. P. V. Pezzutti:** How do you know that?

**Ms LEE RHIANNON:** Because I worked for the Maritime Union of Australia, when it was the Seamen's Union. I edited its journal and the facts are there. The AOF decided, by one vote, to take part in the Moscow Games. The support of the Seamen's Union was seen as crucial to the decision of delegates to vote against the boycott move. I say to the Treasurer that I understand that it is easy to fall asleep in this place but I urge him to read the beginning of my speech, because it refers to him. Despite that vote, the push to pull all athletes out of the Moscow Games did not stop. Pressure was applied to individual sportspeople. A White House aide tried to coerce an Australian swimmer at a southern Californian university to pull out. That person resisted, but a number of athletes succumbed to the pressure; and some probably lost forever their chance to participate in the Olympics.

All up, Australian seamen raised \$50,000 for the 1980 Olympics. What an extraordinary effort! About 5,000 Seamen's Union members supported a \$10 Olympics coupon and that money was donated to boxing, athletics, shooting, wrestling, gymnastics, judo, canoeing, cycling, swimming, basketball, weigh-lifting, pentathlon and archery. Some of the key Olympics figures from the Sydney Games stood by the rights of athletes to take part in the 1980 Games. John Coates did not bow to the pro-boycott lobby and took this stand at some risk to his career. Phil Coles and the then Australian water polo captain, Peter Montgomery, stood by the athletes' rights to participate in the Moscow Games.

I remind those in this place who still harbour their Cold War prejudices, not just the Treasurer, that the support of the seamen for the Olympics did not stop with the Moscow Games. In 1984 the Seamen's Union of Australia opposed an attempt to organise a boycott of the Los Angeles Games. Only two countries have attended every Olympics in the modern era—one is Greece and the other is Australia. It is thanks to the seamen of Australia, and their union, that we have this wonderful record. That record was used during our bid for the Games.

I wonder what the Treasurer did in 1980 to ensure that Australia had an unbroken record of participation in all Olympics in the modern era. In the early 1980s I was fortunate to work as a journalist on the Seamen's Union journal, the source of much of the material used for this speech. On behalf of the Greens I would like to thank the Australian seamen and their union for the part they played in ensuring that Australia has such an exemplary Olympic record of attending the modern Olympics.

**Motion agreed to.**

**House adjourned at 10.30 p.m.**

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